

AGED CARE LEGISLATION AMENDMENT (ABORIGINAL AND TORRES STRAIT ISLANDER AGED CARE COMMISSIONER AND OTHER MEASURES) BILL 2026



Submission

September 2026



NATSIAACC

National Aboriginal and Torres Strait Islander
Ageing and Aged Care Council

Contents

Acknowledgment of Country	2
National Aboriginal and Torres Strait Islander Ageing and Aged Care Council.....	3
About.....	3
Our Vision.....	3
Our Purpose.....	3
With thanks	3
Funding	3
NATSIAACC Recommendations	4
Executive Summary	6
The IAT & Review Pathway	7
Cultural Safety	8
Self-determination and Choice	9
Conclusion.....	11

Acknowledgment 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.

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.

NATSIAACC Recommendations

NATSIAACC's position and recommendations on the Aged Care Legislation Amendment (Aboriginal and Torres Strait Islander Aged Care Commissioner and Other Measures) Bill 2026 remain unchanged. NATSIAACC has previously identified 15 recommendations to ensure the Commissioner has the independence, authority, powers and resources required to drive transformational change across the Aged Care system and improve outcomes for Aboriginal and Torres Strait Islander Elders and Older People. These include:

1. Appoint the Aboriginal and Torres Strait Islander Aged Care Commissioner on a full-time basis.
2. Amend s361A(4) to allow reappointment but limit total tenure to 10 years.
3. Add the Aboriginal and Torres Strait Islander Aged Care Commissioner as a separate governance role under Chapter 5 Part 5 of the Aged Care Act 2024.
4. Expand the Commissioner's functions to include:
 - a. systemic issues;
 - b. coordination of government responses;
 - c. public advocacy;
 - d. research into rights, safety and wellbeing barriers; and
 - e. advice across policies, programs and services affecting Aboriginal and Torres Strait Islander Elders and Older People.
5. Include a statutory Independence of the Aboriginal and Torres Strait Islander Aged Care Commissioner provision.
6. Amend s361D so that consultation with the Minister on the annual work plan is optional rather than mandatory.
7. Require the annual work plan to be developed primarily through engagement with Aboriginal and Torres Strait Islander Elders, Older People, communities and representative organisations.
8. Add a Division 3A provision establishing the powers of the Aboriginal and Torres Strait Islander Aged Care Commissioner.
9. Add a Division 3A provision establishing general principles for performing functions and exercising powers, including cultural safety and human rights principle.
10. Insert provisions equivalent to Part 4 Division 2 – Power to Require Information to strengthen information-gathering powers.
11. Remove s361F(2) which enables people to reject requests from the Commissioner in relation to gathering information or documents.
12. Repeal or amend s361G (Minister may give directions) to protect the Commissioner's independence.
13. Add powers enabling the Commissioner to:
 - a. initiate inquiries;
 - b. investigate systemic issues;
 - c. make recommendations; and
 - d. publish reports independently.
14. Establish a dedicated office, secretariat and staffing arrangements to support the Commissioner.
15. Amend s368 (Termination of Appointment) to include an additional ground for termination where there is a demonstrated loss of confidence by Aboriginal and Torres Strait Islander communities.

Furthermore, NATSIAACC has identified 8 recommendations relevant to the proposed Schedule 4 Amendment including:

1. Review the IAT to appropriately recognise, measure and weight cultural, community, relational, trauma-aware and healing-informed factors that influence the Aged Care needs of Aboriginal and Torres Strait Islander Elders and Older People.
2. Introduce a genuine human and clinical override mechanism that allows approved needs assessors to adjust IAT outcomes where they do not accurately reflect an individual's circumstances, needs or risks.
3. Retain the Schedule 4 review pathway as an additional safeguard rather than relying on it as the primary solution to inequitable IAT outcomes.
4. Amend Schedule 4 to expressly confirm that the original assessment decision remains operational and that service access can commence while an additional review is underway.
5. Within Schedule 4, extend the seven-day review request period to 28 days.
6. Amend Schedule 4 to allow an Elder or Older Person, or their authorised representative, to directly request an additional review where they believe the assessment outcome does not accurately reflect their circumstances, needs or support requirements, with appropriate support provided to enable informed decision-making.
7. Review the My Aged Care Workforce Learning Strategy by introducing mandatory Aboriginal and Torres Strait Islander-specific cultural safety training for all assessors.
8. Increase transparency by publicly outlining how the Good Spirit Good Life (GSGL) Framework informs assessment outcomes and decision-making.

Executive Summary

The Aged Care Act 2024, Statement of Rights and Statement of Principles together, require a person-centred Aged Care system that gives Elders and Older People choice, autonomy, independence and equitable access to safe and quality funded services. By the World Health Organisation's definition, 'equity is the absence of unfair, avoidable or remediable differences among groups of people, whether those groups are defined socially, economically, demographically, or geographically or by other dimensions of inequality'. For Aboriginal and Torres Strait Islander Elders and Older People, the Integrated Assessment Tool (IAT) does not yet deliver the equitable and consistent assessment it is intended to provide. It does not adequately translate culturally safe, culturally appropriate, trauma-aware and healing-informed approaches into individual assessment outcomes.

The IAT uses standardised questions and automated decision-making and is therefore limited in its ability to account for the individual circumstances that shape an Elder or Older Person's needs. Unless cultural, community and relational context is embedded from the outset, the system will continue to produce unfair, avoidable and remediable differences in access and outcomes for Aboriginal and Torres Strait Islander Elders and Older People. Cultural safety must be embedded at the point of assessment, not treated as something to correct after an IAT outcome has been generated. Where an assessment is not culturally safe, an Elder or Older Person may understate their needs because of mistrust, past institutional harm, shame, fear or uncertainty about how personal information will be used. The risk is heightened when assessments occur by phone or are conducted by assessors who do not understand the local, cultural, social and environmental factors that shape ageing and care needs.

The proposed review pathway also raises practical and rights-based concerns as it is unclear whether an Elder or Older Person can commence receiving Aged Care services on the basis of the original assessment outcome while that review is underway. Without clear review processes, an Elder or Older Person may remain without the level of care required while a departmental process occurs, including where the assessment decision affects access to personal care, clinical support, social support or the services required to remain safely at home. A seven-day consent period may also be insufficient to support informed, meaningful and culturally safe participation, particularly where communication needs, language, remoteness, digital access, family decision-making practices, community obligations or reliance on trusted carers and community-controlled providers affect how consent is considered and provided.

The proposed Amendments also risk undermining self-determination and choice by placing the decision to seek review primarily in the hands of the assessor, rather than the Elder or Older Person, their family, community, representative or trusted provider. A person-centred and rights-based Aged Care system must allow the people most affected by an assessment outcome to raise concerns when the IAT does not reflect actual need and must ensure those concerns are addressed through culturally safe, timely and transparent processes. The Amendment should not be confined to a small number of exceptional cases. The IAT must first be able to interpret, measure and weight individual circumstances appropriately, with a human and clinical override where needed to support equitable access to Aged Care.

The IAT and Review Pathway

The proposed Amendment creates a secondary departmental review pathway after the IAT has produced an outcome, but does not address the IAT's underlying structural limitations. A standardised set of questions and automated decision-making may still fail to interpret, measure and weight the individual, clinical, cultural, community and environmental circumstances that shape an Elder or Older Person's Aged Care needs.

While NATSIAACC acknowledges the value of an additional review pathway where an assessment outcome may not accurately reflect an Elder or Older Person's needs, the proposed Amendment does not address the underlying structural limitations of the IAT. The introduction of a post-assessment review mechanism should not be relied upon as the primary means of correcting outcomes that may arise because the tool itself does not adequately recognise or weight cultural, community, relational, trauma-aware and healing-informed factors. For Aboriginal and Torres Strait Islander Elders and Older People, these considerations are not supplementary matters to be reconsidered after a decision has been made; they are fundamental to ensuring that assessment outcomes are accurate, safe and equitable from the outset. Equally, the additional review process is not a substitute for a genuine human and clinical override mechanism within the assessment process itself. Trained assessors must be empowered to apply professional judgement where the IAT outcome does not reflect an individual's actual circumstances and support needs, and to adjust that outcome before decisions about classification, prioritisation and access to funded Aged Care services are made. Without both a more culturally responsive assessment tool and an appropriate assessor override mechanism, the Amendment risks treating inappropriate IAT outcomes as exceptions requiring correction through review, rather than addressing the systemic issues that give rise to inequitable outcomes in the first place.

While Schedule 4 establishes an additional review pathway for certain classification and priority category decisions, it remains unclear whether an Elder or Older Person can commence receiving Aged Care services on the basis of the original assessment outcome while that review is underway. Based on NATSIAACC's reading of the amendment, the review process may take up to 21 days, comprising up to 7 days for an approved needs assessor to lodge a review request and up to 14 days for the review outcome to be notified. However, the amendment does not expressly state whether the original decision remains operational for the purposes of accessing services during this period. This ambiguity creates a risk that vulnerable individuals could experience delays in commencing essential supports while awaiting the outcome of a departmental review process. Such an outcome would be inconsistent with the intent of the Aged Care Act 2024, which seeks to ensure equitable access to funded Aged Care services, support timely and responsive care delivery, and uphold the rights of older people to safe, quality and person-centred care. For Aboriginal and Torres Strait Islander Elders and Older People in particular, any delay in access to personal care, clinical support, social support or services required to remain safely at home may result in avoidable deterioration of health, wellbeing and independence. Greater legislative clarity is required to confirm that service access and funding arrangements under the original decision can commence immediately while any additional review is being undertaken.

Furthermore, a seven-day period may not be sufficient to obtain informed consent in a way that is meaningful and culturally safe. Communication needs, health conditions, language, digital access, remoteness, family decision-making practices and community obligations may all affect an Elder or

Older Person's ability to consider a review request. For Aboriginal and Torres Strait Islander Elders and Older People, consent may also involve trusted family members, carers, community-controlled providers or other supports. A short timeframe may therefore undermine choice, autonomy and participation, limiting the practical value of the proposed review pathway.

Cultural Safety

To deliver the objects of the Aged Care Act 2024, the Statement of Rights and the Statement of Principles, the IAT must be capable of producing equitable access outcomes from the outset. The IAT cannot operate as an equitable and consistent assessment tool for Aboriginal and Torres Strait Islander Elders and Older People unless cultural safety is embedded at the point of assessment. Where a culturally safe Aged Care assessment is not available, Elders and Older People may understate their needs because of mistrust, past experiences of institutional harm, shame, fear, or uncertainty about how personal information will be used. An assessment process that depends on full disclosure of sensitive health, social, cultural and family circumstances must first create the conditions for trust. Without those conditions, the IAT may record a lower level of need than is actually present or cause disengagement and perpetuate inequitable access into the Aged Care system. This risk is heightened in regional and remote communities where assessments may occur over the phone or be undertaken by assessors without a meaningful understanding of local circumstances. Housing conditions, transport barriers, climate, community infrastructure, service availability, kinship responsibilities and cultural obligations can all affect an Elder or Older Person's ageing and care needs. If these matters are not seen, understood or appropriately weighted, the IAT outcome may appear adequate in process but remain inequitable in effect.

NATSIAACC understands that the Good Spirit Good Life (GSGL) Framework is integrated into the IAT and measures wellbeing through 12 interconnected factors important to older Aboriginal people. It is unclear whether it is weighted or influences the assessment outcome. If the GSGL Framework is simply used to assess and record an Elder or Older Person's wellbeing without those results having any impact on the assessment outcome, the 12 factors, including family and friends, connection to Country, community, culture, health, respect, roles, support services, safety and security, spirituality, future wishes and basic needs being met, are all simply overlooked and undervalued when providing care to Aboriginal and Torres Strait Islander Elders and Older People. If this is the case, an equitable Aged Care system cannot simply collect culturally relevant information; it must ensure that such information meaningfully influences assessment outcomes and access to supports. Otherwise, Aboriginal and Torres Strait Islander Elders and Older People may be asked to share information about the very factors that shape their wellbeing, identity and ability to age well, only for those factors to have little or no impact on the level of care and support ultimately allocated. This risks reducing culturally informed assessment to a procedural exercise rather than a mechanism for achieving equitable access and outcomes. To give effect to the objects of the Aged Care Act 2024, the Statement of Rights and the Statement of Principles, cultural, community and relational factors must not only be measured but must also be appropriately recognised and reflected in the decisions that determine access to funded Aged Care services.

Cultural safety also depends on the capability of the assessor and the Aged Care setting they operate within. The Statement of Principles explicitly states that 'The Commonwealth aged care system offers accessible, culturally safe, culturally appropriate, trauma-aware and healing-informed funded aged

care services, if required by an individual and based on the needs of the individual, regardless of the individual's location, background and life experiences. This may include individuals who: (a) are Aboriginal or Torres Strait Islander persons, including those from stolen generations.' Keeping this in mind, assessors must complete the My Aged Care standard training requirements outlined in the My Aged Care Workforce Learning Strategy 2023, yet the learning goal for professional development GOAL 5 Understanding Diversity does not include or recognise Aboriginal and Torres Strait Islander Elders and Older People, which raises questions about whether assessors receive sufficient Aboriginal and Torres Strait Islander-specific cultural safety training to support culturally informed assessment and review processes. Therefore, assessors who under the Schedule 4 Amendment are given the power to make review decisions are therefore not appropriately or adequately equipped with the knowledge and expertise to recognise how culture, community, kinship, connection to Country or Island Home, grief, trauma and relational responsibilities shape Aged Care need. Because the proposed process relies on the assessor identifying when a review should occur, its effectiveness depends on the very system capability that is currently unjust. Where cultural capability is absent, and assessors lack understanding of social and cultural contextual factors, inequitable IAT outcomes may not be challenged at all. When this occurs, Aboriginal and Torres Strait Islander Elders and Older People may exist in a system not capable of equitably catering to their Aged Care needs and there is a heightened risk of early entry into Residential Aged Care or avoidable hospitalisation.

The proposed review process places final decision-making authority with the System Governor or their delegate, rather than the assessor who has directly engaged with the Elder or Older Person and observed their circumstances. Departmental oversight has an important role in ensuring consistency and administrative integrity, but a departmental decision-maker may not have the same opportunity to understand the practical impact of kinship responsibilities, connection to Country or Island Home, community expectations, housing conditions, social isolation, trauma or local service availability. This creates a risk that the review process prioritises administrative interpretation over informed clinical and professional judgement, even where the assessor is best placed to identify that an outcome does not reflect the person's actual support needs.

Self-determination and Choice

A person-centred Aged Care system must support Elders and Older People to participate in decisions about their own care, including decisions about whether an assessment outcome reflects their circumstances and needs. By placing the decision to seek review primarily in the hands of the assessor, rather than the Elder or Older Person, their family, community member or trusted provider, the pathway risks removing autonomy from the people most affected by the decision. This is inconsistent with the rights-based framework established by the Aged Care Act 2024, the Statement of Rights and the Statement of Principles. Choice and autonomy cannot be realised where an Elder or Older Person must rely on a professional, who may be far removed from their lived experience, to identify that the IAT has produced an inappropriate outcome.

Schedule 4 does not give an Elder or Older Person a direct right to initiate an additional review, despite them being the person most affected by the assessment outcome. NATSIAACC considers that Elders and Older People, or their authorised representatives, should be able to directly request an additional review where they believe an outcome does not accurately reflect their circumstances, needs or support requirements. The person must instead rely on the standard reconsideration pathway under

Chapter 8 of the Aged Care Act 2024. Access to the additional review mechanism depends on an assessor identifying concerns and deciding that a review should be sought, even where the Elder or Older Person believes the outcome does not accurately reflect their circumstances. This gives assessors greater agency than the people most directly affected by the decision. For Aboriginal and Torres Strait Islander Elders and Older People, whose cultural, community and relational considerations may not be adequately reflected in an assessment outcome, the process relies on an assessor who may not have the cultural capability or training required to identify those considerations.

This approach sits uneasily alongside the rights-based and person-centred framework established by the Aged Care Act 2024, which recognises an individual's right to exercise choice and make decisions that affect their life, to be supported in those decisions, and to have those decisions respected. The Aged Care Act 2024 also provides that the Commonwealth Aged Care system should support individuals to be active and informed in decision-making and ensure their will and preferences are respected. These principles are reflected more broadly in Standard 1 of the Strengthened Aged Care Quality Standards, which is intended to uphold dignity, choice, independence and self-determination. By limiting access to the additional review process to assessor-initiated requests, the Amendment risks undermining the practical exercise of choice and control, particularly where an Elder or Older Person, their family, representative or trusted provider identifies concerns with an outcome, but an assessor does not. In these circumstances, the process may work against the intent of a rights-based, person-centred Aged Care system by restricting an individual's ability to meaningfully influence decisions that directly affect their access to care and support.

NATSIAACC Recommendations

- Review the IAT to appropriately recognise, measure and weight cultural, community, relational, trauma-aware and healing-informed factors that influence the aged care needs of Aboriginal and Torres Strait Islander Elders and Older People.
- Introduce a genuine human and clinical override mechanism that allows approved needs assessors to adjust IAT outcomes where they do not accurately reflect an individual's circumstances, needs or risks.
- Retain the Schedule 4 review pathway as an additional safeguard rather than relying on it as the primary solution to inequitable IAT outcomes.
- Amend Schedule 4 to expressly confirm that the original assessment decision remains operational and that service access can commence while an additional review is underway.
- Within Schedule 4, extend the seven-day review request period to 28 days.
- Amend Schedule 4 to allow an Elder or Older Person, or their authorised representative, to directly request an additional review where they believe the assessment outcome does not accurately reflect their circumstances, needs or support requirements, with appropriate support provided to enable informed decision-making.
- Review the My Aged Care Workforce Learning Strategy by introducing mandatory Aboriginal and Torres Strait Islander-specific cultural safety training for all assessors.
- Increase transparency by publicly outlining how the Good Spirit Good Life (GSGL) Framework informs assessment outcomes and decision-making.

Conclusion

NATSIAACC acknowledges the intent of Schedule 4 to provide an additional safeguard where an assessment outcome may not accurately reflect an Elder or Older Person's needs. However, the proposed Amendment does not address the underlying structural issues that create inequitable outcomes in the first place. By introducing a review pathway after an IAT outcome has been generated, the Amendment focuses on correcting individual decisions rather than ensuring the assessment process itself is capable of consistently producing equitable, culturally safe and person-centred outcomes for Aboriginal and Torres Strait Islander Elders and Older People.

An assessment system that gives effect to the Aged Care Act 2024, the Statement of Rights and the Statement of Principles must incorporate cultural, community, relational, trauma-aware and healing-informed considerations from the outset. These considerations are central to understanding how Aboriginal and Torres Strait Islander Elders and Older People experience ageing, maintain wellbeing, remain connected to family, community, Country or Island Home, and safely remain living at home.

Without these changes, there remains a risk that Aboriginal and Torres Strait Islander Elders and Older People will continue to experience inequitable access to funded Aged Care services, delayed access to appropriate supports and experience poorer ageing and health outcomes. Conversely, addressing the identified limitations presents an opportunity for Government to strengthen confidence in the assessment system, improve the quality and accuracy of decision-making, support more consistent implementation of the Aged Care Act 2024, and advance commitment to equity, self-determination, choice and culturally safe care for all older Australians.



NATSIAACC

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You can find more information at:



www.natsiaacc.org.au



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