



LEGISLATION OVERVIEW

AN OVERVIEW BASED ON SIIA'S DRAFT LEGISLATION RELEASED

FEBRUARY 8, 2024

PREAMBLE

WHY DOES THIS SECTION MATTER?

The preamble is an introduction to a law. In our law, we want to use our preamble to clearly outline our inherent right and sacred duty to care for children and families in our territories.

KEY POINTS

The Member Nations of the South Island Indigenous Authority have an inherent right and sacred duty to care for the children and families within our territories. This right comes from our laws outlined within our land, our stories, our teachings, our languages, our oral histories, our ways of being, our ceremonies, our songs, and our dances.

We recognize the harm that Canadian policies regarding Indigenous children and families have done to our children, families, and communities. However, despite the harm inflicted, the laws and the culture of our people have persisted.

The Member Nations of the South Island Indigenous Authority maintain that our people are best positioned to remedy the harms to our people and to begin the long and difficult process of bringing healing to our Nations, communities, families, and children through incorporating our culture, languages, and ways of being into our child and family services

The member Nations of the South Island Indigenous Authority recognize that healing for our people stems from the sense of belonging that is rooted in the knowledge of our identity, our origins, and the connections we share as Indigenous peoples

WE BELIEVE

- Our children are gifts from the Creator to their families and our communities.
- Our children are sacred.
- Our children are loved and valued.
- Our children are our teachers.
- Our children will be our leaders.
- Our children are our future.
- To protect our children, we must support and care for our families and communities.

The Member Nations of the South Island Indigenous Authority recognize our obligation to take care of guests within our territories.

We see this as a living law, and the South Island Nations commit to walking together in one spirit for the best interests of our children today and for generations to come.

The member Nations of the South Island Indigenous Authority will work with Canada and its provinces and territories to implement this law through a nation-to-nation relationship.

WE NEED YOUR FEEDBACK!

Do you see yourself reflected in our **DRAFT** preamble?

Is there anything you think needs to be added or changed?



SECTION 1.0 - INTERPRETATION

WHY DOES THIS SECTION MATTER?

The interpretation section is like a dictionary for terms found in a law. As we draft our own law, we get to write our own definitions!

Also, while our law will be written in English primarily, if there are terms within your language that don't have an English equivalent—these words will be given priority when interpreting our law!

DEFINITIONS*

Other definitions will be scattered throughout the rest of this report

You will be considered a **CHILD** under our law if you are under 19 years old.

You will be considered a **YOUNG ADULT** if you are between the ages of 19-27 years old

You will be considered an **ELDER** if you are respected for your wisdom, seen as an authoritative decision-maker, and are knowledgeable about the culture and traditions of your community.

You will be considered part of a child's **FAMILY** if you are connected to them through blood, marriage, cultural adoption, ancestral names, or custom. This is meant to include children's siblings, parents, grandparents, uncles, aunts, cousins and extended family members as well as any person who, through significant emotional connection, is considered to be family by the child themselves.

You will be considered a part of a child or family's **COMMUNITY** if you are connected to them through shared histories, traditions, cultures, and land relationships.

You will be considered a child's **PARENT** if you are the biological mother or father of a child or are standing in the place of their biological parents while the child resides with you. You will also be considered a parent if you have been granted custody over a child or have assumed legal responsibility for the day-to-day care of a child.

You will be considered a **FAMILY HEAD** if you are a member of a child's family (apart from their parents) who has been acknowledged by a family as their authoritative decision maker and identified as such in a Child's **CHILD PLAN** (see Section 10.2 (page 9))

WE NEED YOUR FEEDBACK!

Do these definitions fit your understanding of these terms?

SECTION 2.0- GUIDING PRINCIPLES

WHY DOES THIS SECTION MATTER?

Decision makers will need to interpret our law consistent with our Guiding Principles.

KEY POINTS

- Everything done under this law must respect that **CHILDREN ARE SACRED**
- This law will support family connections as **FAMILY IS THE CENTRE OF EVERYTHING**
- **IT TAKES A COMMUNITY TO RAISE A CHILD** and thus our law will always look to strengthen the network of support around a child and their family.
- We understand that **WE ARE ALL RELATED/WE ARE ALL ONE** and honor the diversity present here on our territory and the ways we are interrelated as well.
- All efforts must be put towards helping people understand who they are, where they come from, and what they belong to, as a **SENSE OF SELF AND BELONGING IS ESSENTIAL**.
- Everything done under this law must be done with **RESPECT**
- When we have much, we share, and expect the same to happen in return. Reciprocity is evidenced



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as we **SHARE, SUPPORT, AND HELP ONE ANOTHER** and want to foster this value within the generations to come.

- Everything done under this law must be done with **LOVE**.
- When we come together to discuss the wellbeing of children, we expect all those involved to set aside their differences and to be of **ONE HEART, ONE MIND** looking forward towards the best interests of a child.

- When someone needs healing, change, or support, we believe in **BLANKETING/LIFTING THEM UP** with the love and the support they require on their life journey.
- It is a child's right to learn their language as **LANGUAGES CONTAIN OUR LAWS, TEACHINGS, CULTURE, SPIRITUALITY, BELIEFS AND ANCESTRAL KNOWLEDGE**.

WE NEED YOUR FEEDBACK!

Is there anything else you would like people to consider as they interpret our law?

Should we combine any of our Guiding Principles?

Section 3.0 – Minimum Standards

WHY DOES THIS SECTION MATTER?

According to Bill C-92, which is the federal law that recognizes our right to make our own child and family laws, we must address the three components of Minimum Standards in our legislation.

KEY POINTS

- The three areas of Minimum Standards apply as well as the Guiding Principles discussed earlier. These Minimum Standards are meant to apply to all children in Canada.
- The first Minimum Standard is that our Law must act in the Best Interests of the Child. We define those Best Interests within a cultural context for our children.
- The second Minimum Standard is our Law must maintain Cultural Continuity for the children we serve. As maintaining and enhancing culture for our children is a primary goal of our Law, this is not difficult to include or define.
- The third Minimum Standard is Substantive Equality. This is a reminder that we must treat all children in our communities by the same standards, and that all children served should be able to expect the same standards of service.

WE NEED YOUR FEEDBACK!

Would you change anything in how we have defined the three Minimum Standards?

SECTIONS 4.0, 5.0, & 6.0- JURISDICTION, PURPOSE, AND APPLICATION

WHY DO THESE SECTIONS MATTER?

These sections matter as they outline who will be covered under this new law (and the legal authority of the Nations to be doing this!) We also need to clearly establish what the purpose of our law is.

DEFINITIONS

Our **MEMBER NATIONS** are the nations who have signed on to be covered by this law. They include: paačiid?aa?tx (Pacheedaht); BOKÉĆEN (Pauquachin); Sc'ianew (Beecher Bay); WJOLÉŁP (Tsartlip); WŚÍ,KEM (Tseycum); T'Sou-ke (Sooke); ləkʷəŋən (Songhees); and xʷsep-səm (Esquimalt)

Our **INDIGENOUS GUESTS** are Indigenous people living on the traditional territory of the member Nations. See Section 8.2 ([page 6](#)) for an expanded definition.



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KEY POINTS

- The purpose of our law is to support Children, strengthen Families and heal Communities. We will work with Families to achieve this through the promotion of each Child and Family's cultural identity, and we will set out guidelines of how this will be done.
- If you are a member of one of our **MEMBER NATIONS** you will be covered by this law no matter where you reside! This means, even if you live out of province, this law will still apply to you! Even if you are not registered, but are entitled to be registered, this law will still apply to you!
- If you are an **INDIGENOUS GUEST** residing within our jurisdiction, you will still be covered by this law as well unless you are already covered by your own Nation's law.



Jurisdictional Territory SIIA will be covering

ISN'T HAVING MULTIPLE LAWS GOING TO MAKE THINGS COMPLICATED FOR FAMILIES TO ACCESS SERVICES?

We acknowledge that sorting out what law applies to a child/person might be complicated, and so we have incorporated Jordan's principle within our law, to ensure that jurisdictional disputes do not result in a gap, denial, delay, or disruption in the Child and Family Services that are provided in relation to a Child.

Service Delivery under our law will operate under a "serve a family first, figure out funding responsibilities afterwards".

WE NEED YOUR FEEDBACK!

Do you have any worries about how this new system will work?

Is there anything else you think we can do to make sure children and families don't fall through any cracks?

Are we missing any group who our law should apply to?



SECTION 8.0- THE ROLE OF SIIA

WHY IS THIS SECTION IMPORTANT?

This section is important as we need to establish in law what the South Island Indigenous Authority (SIIA) is and what functions it will have through this new law!

KEY POINTS

- SIIA will be established as a society under this law and will have to operate within certain legal parameters as a result
- SIIA's will operate mostly as oversight body but also will have some key service delivery roles under the law
- The new roles outlined within the Law (such as FLOOR MANAGERS, CHILD AND FAMILY ADVOCATES, and the CHILD SAFETY TEAM will be SIIA roles
- Family support services will continue to be completed by contracted service providers such as Hulitan, Surrounded by Cedar, South Island Wellness, NIŁ TU,O and the Victoria Native Friendship Centre)
- SIIA needs to be connected to the Nations it represents, but we also don't want to have Nation-level politics impact SIIA's role in caring for children and families. The following graph outlines how we see this happening

See graphic (page 11) for a visual representation of the above points

DEFINITIONS

Our **REPRESENTATIVE COUNCIL** will be made up of individuals representing each member Nation (or multiple) and will be appointed through the Leadership of the Nation(s) they represent. Three members of our Representative Council will come from the Council of Indigenous Guests.

Our **BOARD OF DIRECTORS** will be an expert group of 5 or 7 individuals who have been appointed by our Representative Council to supervise management of the South Island Indigenous Authority. One member of our Representative Council will sit on our Board of Directors.

Our **EXECUTIVE OFFICER** will be hired by our Board of Directors and will be responsible for hiring employees, delegating and contracting out responsibilities outlined within this law.

YOUTH AND ELDERS COUNCILS would be regional structures like the Representative Council, but also could exist at the Nation level.

WE NEED YOUR FEEDBACK!

Do you have any worries about how this new system will work?

Is a regional Youth Council an important structure for us to set up? What would their role be?

Is a regional Elders Council an important structure to set up? What would their role be?

SECTION 8.2- COUNCIL OF INDIGENOUS GUESTS

WHY IS THIS SECTION IMPORTANT?

Through our law, our **MEMBER NATIONS** have agreed it is their responsibility to care for our Indigenous guests on our shared territories. Yet, we also understand the diversity present within our guest community and need to honor their unique gifts and experiences within our law. The previous section outlined how our governance system would be connected to the governance of the Member Nations, we also see how important it is that our guest community has representation within our governance model as well. This section outlines how we conceive of this happening.



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KEY POINTS

- Our Council of Indigenous Guests will have ~5 members which will include
 - One member representative from our Nuuchahnulth residents.
 - One representative from our Kwakwaka'wakw residents.
 - Three other representatives from any other Indigenous peoples living in the South Island region.
- This council will operate similarly to how a First Nation Chief and Council operate. The Council may organize, meet, and regulate their own meetings though a quorum (a majority of members) must be present when decisions are being made.

See graphic on page __ for a visual representation of the above points



DEFINITIONS

You will be considered an **INDIGENOUS GUEST** under our law if you are a member or is entitled to be a member of a First Nation which is **NOT** one of our **MEMBER NATIONS**; **OR** meet the definition of an **INDIGENOUS PERSON**; **OR** belong to another Indigenous Governing Body.

Our definition of **INDIGENOUS PEOPLE** is the same as the way "Aboriginal Peoples" is defined in section 35 of the Constitution Act (1982). In the Act "Aboriginal peoples of Canada" includes registered "Indian", Inuit and Métis peoples of Canada.

WE NEED YOUR FEEDBACK!

- Do you have any worries about how this new system will work?
- Does our definition of an Indigenous guest seem fair/fit?
- How do we limit **SIIA** from becoming an arbitrator of Indigenous identity (i.e. how do we draw the line of who is/isn't included in our law)?
- Should there be Guest Community Elders/Youth Councils? How would these be organized?

SECTION 8.6- REGIONAL CHILD AND FAMILY ADVOCATE

WHY IS THIS SECTION IMPORTANT?

The Regional Child and Family Advocate is the position with overall responsibility for child and family services in our region.

KEY POINTS:

- The Regional Child and Family Advocate will be responsible for hiring and overseeing the Child and Family Advocates, the Floor Managers, and the Child Safety Team.
- The Regional Child and Family Advocate will oversee Quality Assurance functions for **SIIA**.
- The Regional Child and Family Advocate will be the senior staff representative working with the Representative Council, which ensures alignment between the communities being served and the services provided.

WE NEED YOUR FEEDBACK!

Do you have any worries about this new position?



SECTION 10.2- CHILD PLANS

WHY IS THIS SECTION IMPORTANT?

Through our law, we are trying to establish families as the central decision makers when it comes to their children. We are proposing an entirely new concept called a **CHILD PLAN** in order to achieve this. This section of our law outlines what a Child Plan is and how it will be used to support Child Wellbeing.

KEY POINTS

- Child Plans will be the foundation of our new service delivery and support system
- **ALL** Indigenous Children on the South Island will be required to have a Child Plan. As a parent, you can complete a Child Plan for your Child without any outside intervention, but support will be there to assist you if required
- Each community's **FLOOR MANAGER** will help families with this task as required and ensure that all Child Plans in their respective communities are up to date.
- The main purpose of Child Plans is to have immediately available family information to allow approved family members to respond to emergency circumstances with a child, instead of non-family professionals.
- The Child Plan will identify both cultural and non-cultural roles in the family, such as who to contact when the parents cannot be reached (the **FAMILY HEAD**); who could provide emergency care for a child (the **RECEIVER**); as well as identifying other significant individuals in the child's life.
- All information in a Child Plan will be stored securely and is only for use in prescribed circumstances.

QR CODE WITH A CHILD PLAN EXAMPLE COMING SOON!



WE NEED YOUR FEEDBACK!

Do you have any worries about Child Plans?

Do you have any questions about how they will work?

SECTION 9.4- ADOPTIONS

WHY IS THIS SECTION IMPORTANT?

If we want to establish any formalized adoption process moving forward, we must outline it within our law.

KEY POINTS

- Adoption of a child under this Law will be decided on by the family at one or more Family Meetings and formalized in a Longhouse Gathering.
- Adoption does not sever the child's relationship with their biological parents and has the same force as it would if were to go through a court order under the current Adoption Act.

KEY POINTS

- Do we want to include adoption within our law?



SECTION 9.0- LONGHOUSE PROCESS

WHY IS THIS SECTION IMPORTANT?

In this section, we outline the process that will be followed under our law to empower families as the most responsible for resolving their own familial issues, with minimal outside intervention, unless support is requested or required by the family. This section is called the Longhouse Process to honor the law of the territories upon which any work will take place—but in essence outlines how a series of family meetings will be hosted to support families in coming to their own family-based consensuses and does not have to occur within a physical longhouse.

KEY POINTS

ABOUT FAMILY MEETINGS

- Your family will be empowered under this law to call a family meeting to support the wellbeing of a child, youth, young adult, or family. You can request support to facilitate these meetings if needed!
- If there is a child in your family whose safety or well-being is at risk, family meetings will be required to resolve the presenting issues and create a **SAFETY PLAN** (see section __). This process will be directed by the identified **FAMILY HEAD** for that child. The **FAMILY HEAD** can also request support to facilitate these meetings as needed!

ABOUT LONGHOUSE GATHERINGS

- Most of the time, decisions can be made through family meetings. But if your family wants to have a decision or plan formally witnessed in a larger gathering (a Longhouse Gathering), you can request support to facilitate these gatherings if needed!
- A larger gathering will also be held if the Family Head of a child does not think it will be possible to achieve consensus through a series of Family Meetings.
- Within a **LONGHOUSE GATHERING**, those involved can appoint a speaker to represent their interests at the Gathering.
- A Family will identify **WITNESSES** to participate in a Longhouse Gathering, who may be called upon to share what they witnessed at subsequent Family Meetings and Longhouse Gatherings.

DEFINITIONS

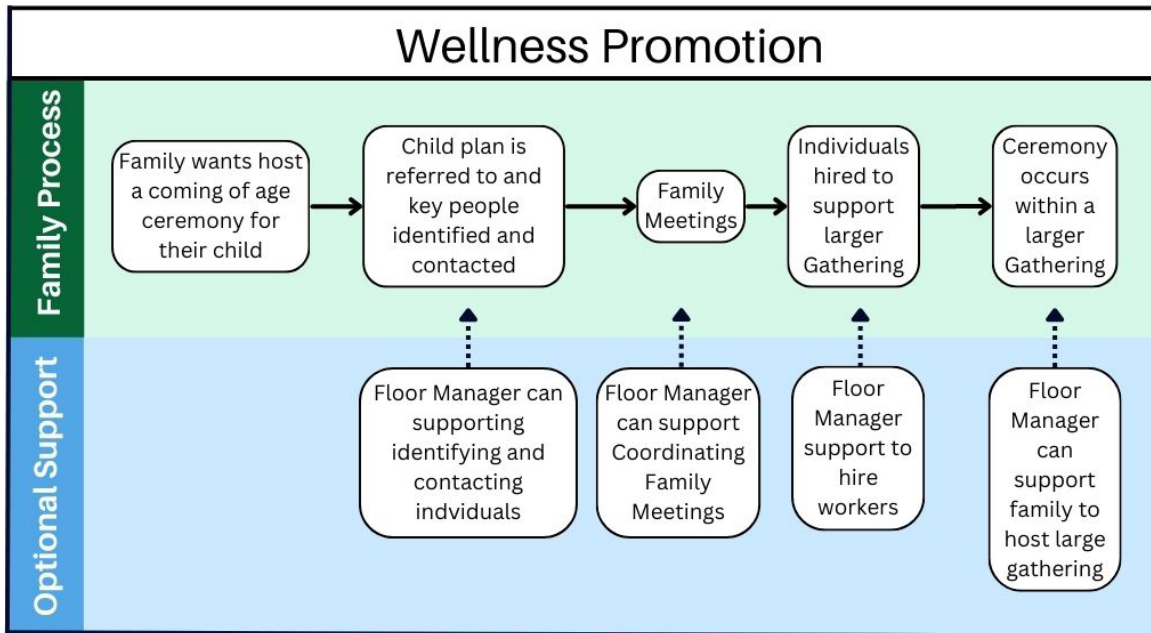
FLOOR MANAGERS are individuals who support families to facilitate their own family meetings and Longhouse Gatherings. Our new system will have professional Floor Managers who will also assist with the creation of **CHILD PLANS** but is flexible to have family appoint floor managers assist with these processes.

WITNESSES are present at Larger Gatherings and Family meetings regarding Child's safety to hold all those involved accountable to their agreed upon roles and responsibilities in relation to a plan/decision. Families will be able to select their own witnesses.

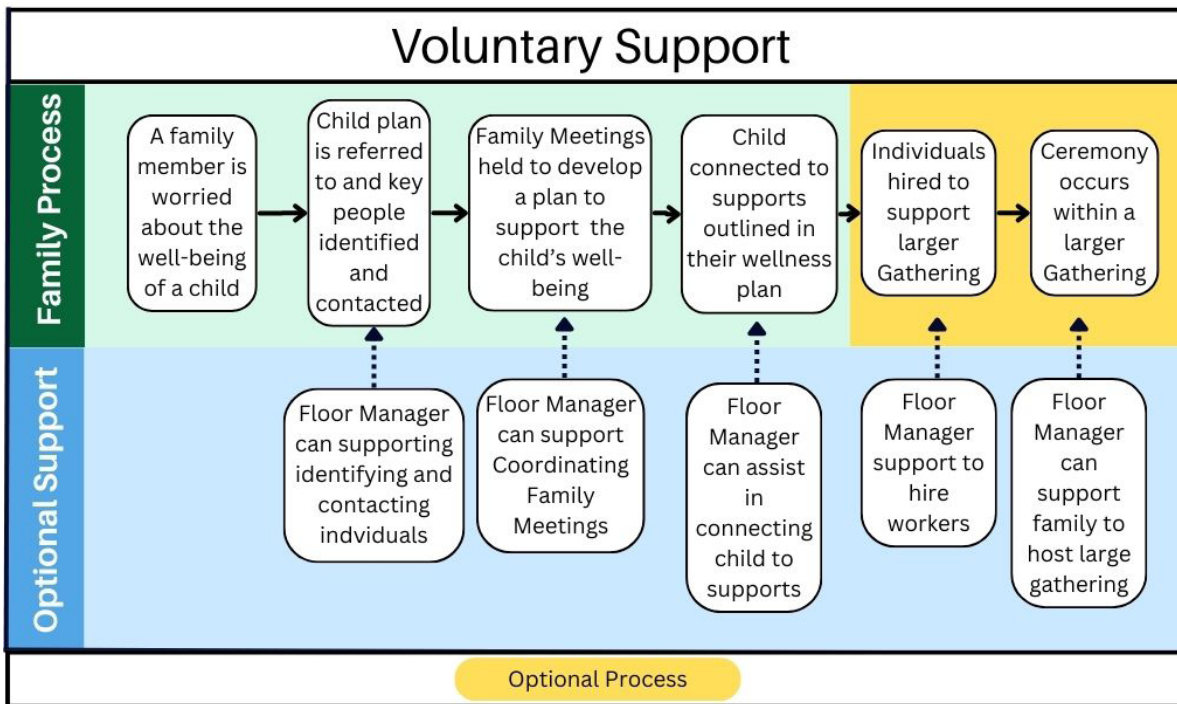


WE NEED YOUR FEEDBACK!

- Do you have any worries about how this new system will work?
- Do you think your family would be able to solve issues through this process?



Example of how the Longhouse Process can be used to support family wellness



Example of how the Longhouse Process can be used to support voluntary family planning



SECTION 10.4- IN NEED OF INTERVENTION

WHY IS THIS SECTION IMPORTANT?

Within our law, we need to clearly outline a threshold at which a child might be, or is, at risk of harm, and outline the process when this is the case.

KEY POINTS

- Community members will be able to make reports if they believe a child is at, or might be at risk of, harm in accordance with our law
- **SIIA** will have a **SAFETY TEAM** to assess all reports and determine whether the report will require a **SAFETY ASSESSMENT** to be completed.

See excerpt from our Legislation on page __ for all conditions which indicate a child might be, or is, at risk

WE NEED YOUR FEEDBACK!

Do the safety and risk factors we have described the ones that you believe should apply in our communities?

Is the list, and the scope of our list, too large? Did we include what we need to so we can help families to keep their children safe?

SECTIONS 10.5 & 11.0- SAFETY ASSESSMENTS AND SAFETY PLANS

WHY ARE THESE SECTIONS IMPORTANT?

Our law must outline our process for dealing with child wellbeing concerns as they arise. If we don't include this in our law, the provincial government will take over when child safety concerns arise.

Through this section, we want to position families as primarily responsible for addressing issues when they arise, but we will require some administrative checks to ensure that children remain **SAFE**.

KEY POINTS

- **SIIA's CHILD SAFETY TEAM** will **ONLY** be responsible for completing safety assessments and presenting them to the **FAMILY HEAD**. Unlike current Child Protection Workers, the Child Safety Team are not able to make decisions about a child.
- Once the Family Head receives the safety assessment, they are responsible for arranging family meetings to develop a **SAFETY PLAN** which addresses all the identified safety risks outlined within the assessment. They can request support to facilitate these meetings as required.
- The Family Head and family decide who is important to attend these meetings. Decision making through this process is controlled by the Family.
- To formalize a Safety Plan, a **WITNESS** (chosen by the family) must be present to confirm the decisions and hold all present to their duties to ensure the safety of the Child.
- The **CHILD AND FAMILY ADVOCATE** will be responsible for confirming that a Family has addressed sufficiently all the factors included in the Safety Assessment.
- If the safety concerns haven't been addressed in a Family's safety plan, the Child and Family Advocate will give the Family a chance to update their plan.
- **ONLY IN** circumstances where the Family cannot reach a plan to ensure a child's safety, will the Child and Family Advocate impose a Safety Plan to protect a child's wellbeing.

WE NEED YOUR FEEDBACK!

Do you have any worries about how this new system will work?

Do you think this system will keep children safe?



SECTION 12.0- DISPUTE RESOLUTION

WHY IS THIS SECTION IMPORTANT?

We need to establish an independent body that can review decisions made by **SIIA** to ensure our system operates in accordance with administrative fairness. If we don't establish this dispute resolution body, the B.C. Court System will be able to review our decisions.

KEY POINTS

- We will establish an **AUNTIES** (or **ELDERS**) **COUNCIL** to review any decisions made through our system that are challenged.
- If you don't think you were treated fairly through the processes outlined in our law, you could bring this to our Aunties Council.
- This Aunties Council will need to ensure there is no conflict of interest when hearing a dispute, which we acknowledge may be a challenge considering our communities' closeness.
- Any decision of the Aunties Tribunal would be final.

WE NEED YOUR FEEDBACK!

Do you have any worries about how an Aunties Council might work?

Should this Council be called an Aunties or Elders council?

How do we ensure there is no conflict of interest amongst the Aunties (or Elders) determining an outcome?

How would Aunties (or Elders) be appointed to this council?

We have also been considering using the already established **REPRESENTATIVE COUNCIL**; or establishing another **INDEPENDENT REVIEW BODY**.

