

**Submission on the**

**‘exposure draft’ of the**

**CATSI Act Amendment Bill**

**August 2021**

|  |
| --- |
| **Any enquiries about this submission should be directed to:** National Aboriginal Community Controlled Health Organisation (NACCHO)Level 5, 2 Constitution Avenue, Canberra City ACT 2601Telephone: 02 6246 9300; e-mail: reception@naccho.org.au |

**About NACCHO**

NACCHO is the national peak body representing 143 Aboriginal community-controlled health organisations (ACCHOs) across Australia. Over 80 of these are CATSI Act-registered organisations. Our members form a national footprint that is accessed by over half the Aboriginal and Torres Strait Islander population. Our clinics provide 3.1 million episodes of care per year for almost 410,000 people across Australia, including 1 million episodes of care in remote regions.

Collectively, we employ about 7,000 staff, 54 per cent of whom are Indigenous, putting us in the top three largest employers of Aboriginal and Torres Strait Islander people in the country.

NACCHO liaises with its membership, its eight state/territory affiliates, governments, and other organisations on matters of Aboriginal and Torres Strait Islander health and wellbeing policy and planning issues and advocacy relating to health service delivery, health information, research, public health, health financing and health programs.

ACCHOs range from large multi-functional services employing several medical practitioners and providing a wide range of services, to small services which rely on Aboriginal Health Workers/Practitioners and/or nurses to provide the bulk of primary health care services, often with a preventive, health education focus. Our 143 ACCHOs provide services from about 550 clinics.

ACCHOs contribute to improving Aboriginal and Torres Strait Islander health and wellbeing through the provision of comprehensive primary health care, and by integrating and coordinating care and services. Many provide home and site visits; medical, public health and health promotion services; allied health; nursing services; assistance with making appointments and transport; help accessing childcare or dealing with the justice system; drug and alcohol services; and help with income support.

During the early days of the recent pandemic, NACCHO led the sector’s response and engagement with governments to ensure that the impact was minimised amongst Australia’s First Nations, in which levels of comorbidity and socio-economic factors (e.g. overcrowding and poverty) meant that much higher death rates were expected. No deaths were recorded from COVID-19 amongst our people and our share of the caseload was 0.5 per cent when our share of the national population is 3.3 per cent. It is a remarkable story of success, when compared to the tragic outcomes experienced by First Nations people in other countries (e.g. the Navajo and Black Feet in North America who have the highest death rates of all groups).[[1]](#footnote-1)

This risk remains, but the existence of a national network of ACCHOs has been critical to the success thus far. If the pandemic has shown anything in our sector, it is that ACCHOs are flexible and effective frontline services. Now, more than ever, the network needs to be developed and supported. Any changes in the CATSI Act need to assist ACCHOs in our sector, not impede them.

**Commitment to the new National Agreement on Closing the Gap**

NACCHO played a leading role in setting up the Coalition of Peaks that grew into a group of over 50 Aboriginal organisations uniting to negotiate the new National Agreement on Closing the Gap with Australian governments.[[2]](#footnote-2)

The new National Agreement was developed around four priority reform areas.



***Table 2: National Agreement of Closing the Gap: four priority reform areas***

|  |
| --- |
| 1. **Shared decision-making**: Aboriginal and Torres Strait Islander people are empowered to share decision-making authority with governments to accelerate policy and place-based progress on Closing the Gap through formal partnership arrangements.
2. **Building the community-controlled sector**: There is a strong and sustainable Aboriginal and Torres Strait Islander community-controlled sector delivering high quality services to meet the needs of Aboriginal and Torres Strait Islander people across the country.
3. **Improving mainstream institutions**: Governments, their organisations and their institutions are accountable for Closing the Gap and are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people, including through the services they fund.
4. **Aboriginal and Torres Strait Islander-led data**: Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally-relevant data and information to set and monitor the implementation of efforts to close the gap, their priorities and drive their own development.
 |

These four priority reform areas reflect what Aboriginal and Torres Strait Islanders have been telling governments for decades. They must be embraced by all parties, if real progress is to be made. The four priorities, and the principles underlying them, form the basis of much of this submission. NACCHO is committed to the objectives underpinning that seminal agreement.

**Partnership, not consultation**

NACCHO has been disappointed in the cursory approach to engagement undertaken in the review. It is NACCHOs view that the National Indigenous Australian Agency (NIAA) has lost a valuable opportunity to not only demonstrate its commitment to the new process of partnership with Aboriginal and Torres Strait Islander leadership as set out in the priority reform areas of the new National Agreement on Closing the Gap

The ‘consultation process’ for the technical review was a lesson in how not to work with Aboriginal and Torres Strait Islander peoples. The Government’s technical review was announced without any prior engagement or discussion with Aboriginal and Torres Strait Islander representatives.

It was ‘top-down’ and had very narrow terms of reference, which prohibited the exploration of critical issues such as: whether the CATSI Act was achieving its objectives, what benefits were provided to Aboriginal and Torres Strait Islander peoples, what the implications were of the former Indigenous Advancement Strategy (IAS) reforms – e.g. broad-banding programs in the context of funding cuts – and whether there were other ways to deliver productivity. Submissions were not published, nor was a report released on the outcomes of the review (until the recent report for ‘phase 2’, which is most welcome).

There was no evidence that any key stakeholders, such as State and Territory governments, participated in the first phase of the review. It was also undertaken by an external non-Aboriginal legal firm engaged by the Registrar. In our view it should have been conducted by the Department of the Prime Minister and Cabinet to avoid any perceived conflict of interest. It was disappointing to find a regulatory authority making such a fundamental mistake in the management of conflict of interest.

NACCHO notes the Department of the Prime Minister and Cabinet was included in a steering committee with ORIC representatives which oversaw the review and provided a confidential report to the Minister for Indigenous Affairs on the findings of the review. However, Aboriginal and Torres Strait Islander stakeholders were not represented on the steering committee, which consisted wholly of public servants. The process left Aboriginal and Torres Strait Islander peoples and their representative organisations as bystanders, only able to provide feedback to discussion papers developed from a narrow terms of reference.

The lack of meaningful consultations continued with the Bill introduced into the Parliament without an exposure draft being provided for comment. Hence, the release of the exposure draft on this second attempt is a very welcome improvement, albeit tempered by a continuing pattern of lack of engagement with Aboriginal and Torres Strait Islander leadership and peaks in a formal partnership. In their own submissions in October 2020, Aboriginal Peak Organisations NT (at pp. 1-2), Central Australian Aboriginal Congress (pp. 4-5) and the Victorian Aboriginal Community Controlled Health Organisation (at p.2) and a number of other Aboriginal organisations have also emphasised this point. We also included this request as a key plank in NACCHOs October 2020 submission.

The new approach under the revised Closing the Gap process of involving Aboriginal and Torres Strait Islander people in *decision-making* (not just consultation) should be embraced by all agencies. The main criticism we have of the process with the review of the CATSI Act is that all we have had is consultation and there has been no clear and systematic engagement with senior Aboriginal and Torres Strait Islander leadership in the process of the review and in the decision making in relation to the drafting and the preparation of the exposure draft.

We asked that the process be delayed so that this can be rectified.

Specifically, NACCHO has proposed that a Joint Governance Review Group be established, made up of leaders in the key community-controlled sectors that use the CATSI Act and senior public servants in NIAA which would provide a vehicle for partnership and shared decision making with respect to the CATSI Act review and its aftermath, including managing the community engagement process and in implementing legislative reform. We suggest relevant peak bodies would include the National Native Title Council, National Aboriginal and Torres Islander Legal Services, First Nations Media Australia, members of the Coalition of Peaks, NACCHO, and representatives of other Aboriginal and Torres Strait Islander organisations that are engaged with the review of the CATSI Act. Forming a Joint Governance Review Group would also enable NIAA to provide clarity on decisions made during the review process to this point, such as how it was determined that the CATSI Act remains relevant and necessary as a special measure.

As this has not been not done, there is a strong risk that a second Bill will be brought into the Parliament without the support of key Aboriginal and Torres Strait Islander organisations and ultimately fails, as it did previously, to secure cross-party support.

It is not too late for NIAA to properly partner with Aboriginal and Torres Strait Islander leaders and to implement a process such as the one we have requested.

The Government advises the Bill is compatible with the human rights and freedoms recognised by Australia. However, the process that has been followed thus far in reviewing the CATSI Act and drafting the Bill does not really allow us to make any judgement about whether or not this is the case. The process was not transparent or evidence-based and Aboriginal and Torres Strait Islander stakeholders were excluded from decision-making. That does not augur well for whether the Bill complies with human rights instruments. Also of concern is whether certain elements may be racially discriminatory (e.g. reporting on directors’ remuneration). It would be appropriate, in these circumstances, that the Committee seek the views of the Australian Human Rights Commission before reaching a position on the Government’s statement.

On the basis of the information before us, NACCHO cannot support the review overall. We represent over 80 organisations affected by these changes and should be considered a key stakeholder and partner. Therefore without genuine collaboration, we cannot support the Bill.

**Previous submissions**

Our previous two submissions were lodged in:

* [January 2019](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/CATSIAmendmentBill2018/Submissions) – NACCHO Submission to the Inquiry by Senate Finance and Public Administration Legislation Committee into the Corporations (Aboriginal and Torres Strait Islander) Amendment (Strengthening Governance and Transparency) Bill 2018; and
* [October 2020](https://www.niaa.gov.au/indigenous-affairs/economic-development/review-catsi-act/catsi-act-review-second-phase-written-submissions) – NACCHO Submission to the Review of the CATSI Act – Phase 2 Consultation.

Although we have seen some gains in the drafting of the Bill since we lodged these submissions, many of our key concerns remain.

**General comments**

NACCHO recognises that the CATSI Act facilitates self-determination for Aboriginal and Torres Strait Islander corporations. It provides a vehicle to ensure corporations delivering services to our people remain community-controlled. The CATSI Act is designed to reduce the inequalities faced by Aboriginal and Torres Strait Islanders and has an important role to play in the revitalised Closing the Gap process.

Accordingly, it is an understatement to say that the CATSI Act is important to the Aboriginal and Torres Strait Islander health sector. It is a primary vehicle that has been available, in its original form, since 1976, for Aboriginal and Torres Strait Islander people to control and take responsibility for their own health. It facilitates self-determination and sets out rules for how our members and directors ae appointed from our communities. The CATSI Act also provides the rules to establish policies for the governance of our organisations, for their financial management, control and reporting. It has had a significant impact on our costs and benefits to Aboriginal and Torres Strait Islander peoples for about 45 years.

Despite the lack of engagement with Aboriginal and Torres Strait Islander leadership, the review does seem to have resulted in a number of positive elements included in the report that will benefit the sector.

There are also a number of very negative aspects to the report and a number of recommendations going forward in the Bill and through other mechanisms that we do not support.

NACCHO’s specific feedback is set out in detail in nine sections below.

**Recommendations of the report and changes taken up in the Bill and other contexts**

(i) Commitment to the sector and key principles

Of the eight recommendations not taken up within the 72 total recommendations of the review, it is pleasing to see that seven of these seem to be because their intent is covered off through other actions or other recommendations and that they are not being ‘avoided’.

However, in relation to recommendation 1, we think that there has been a cursory response provided that does not justify its rejection. While it may be true to say that ‘capacity building, promoting modern governance … is already appropriately addressed by the Registrar’s functions and powers’, if this intention is not clearly articulated in the objects of the CATSI Act, then it will be all the more readily overlooked.

While recognising that it is hard to write a commitment to these principles into law, there could at least be an attempt made to include an overarching statement to this effect. The Law Council of Australia has expressed a similar view in its own submission in October 2020 (at pp. 3-4). Hence, we urge the Government to reconsider including recommendation 1 of the review (i.e.: objects of the CATSI Act amended “to better reflect its role by referring to capacity building, promoting modern governance and accommodating Aboriginal and Torres Strait Islander tradition and circumstance”).

The Commonwealth needs to be seen to be committed to capacity building and in working collaboratively with our communities and their organisations. For example, NACCHO has a very positive relationship with the Commonwealth Department of Health, built up over the 50 years of our sector’s history, in which we have, generally, worked collaboratively to address emerging governance issues. However, there are still too many instances when concerns with the governance and/or finances of one of our members are raised far too late for remedial action to be taken and/or not at all before an intervention takes place and unintended damage occurs within the community. It must be remembered, therefore, that no matter how good the legislation may be – in this case, the CATSI Act – it is always important to consult closely with the sector long before punitive action is put into effect. An overarching statement as suggested in recommendation 1 would go some way in underlining this collaborative approach.

Generally, it is true to say that the legislative and regulatory framework is important and NACCHO commends the work that has been undertaken to strengthen it and to bring greater accountability and improved governance to our sector; however, legal and regulatory action should always be undertaken only as a last resort and after early and careful consultation with NACCHO as a peak and the our state/territory counterparts, so that support can be deployed to avoid harsher action, wherever this is practicable. Unexpected regulatory action can sometimes lead to far-reaching and unintended consequences in some communities, particularly those where the ACCHO provides the key infrastructure of that community.

The powers and functions of the Registrar should be altered to allow for targeted, *minimalist* interventions to address concerns well before serious problems emerge. Such powers would be exercised only in circumstances where either a board has made a request, or where ORIC holds a reasonable belief that doing so is in the best interest of the membership. This creates an opportunity to make adjustments and improvements to corporations as they are established and grow. Emphasising a capacity building component in the functions of the Registrar will also make it more likely that Aboriginal and Torres Strait Islander corporations achieve success.

In relation to ‘439 25 Enforcement of undertakings’ and ‘571 10 Matters to be included in an infringement notice’, NACCHO agrees with a point made by Aboriginal Peak Organisations NT in its October 2020 submission (p. 2):

*… that the CATSI Act be decriminalised. The current approach is too dependent on penalties and the draft discussion paper does not address the pervasiveness of the criminal provisions in the Act. There are 166 potential criminal offences that may arise from breaching the Act, which are trivial and administrative. Penalties could attract fines up to $200,000, which is disproportionately burdensome to individuals, given they often function in unpaid roles.*

Of course, NACCHO and our colleagues would always support penalties in genuine cases of fraud. The issue here is with unintended transgressions in situations, often arising in relation to lack of information, expertise or training of well-intended and/or voluntary workers.

(ii) Impact in remote areas

The practical implications of the CATSI Act are varied across corporations. In particular, corporations in remote and very remote areas account for 40% of all CATSI corporations and face operating environments very different from regional and urban Australia.[[3]](#footnote-3)

In remote Australia, Aboriginal and Torres Strait Islander languages remain strong as does traditional law and custom. It is essential that traditional law and custom provisions be acknowledged in the revised CATSI Act. Direct consultation and decisions made in partnership with Aboriginal and Torres Strait Islander corporations – especially those in remote areas – will enable the Act to be adjusted to better pursue economic and community development opportunities.

For example, a remote corporation may have a highly transient membership base making contact difficult without recourse to posting notices on noticeboards in health services or outback stores. It is important that governance structures in the CATSI Act are flexible enough to accommodate such situations without unnecessary compliance burdens.

(iii) Increasing flexibility in governance

Recommendation 18 (i.e. making it easier for corporations to establish subsidiaries and joint ventures) provides the necessary flexibility for many of our members to grow themselves and to adjust to changing circumstances and to take advantage of regional opportunities where joint ventures may be necessary.

Recommendation 27 (i.e. special rules introduced by the Registrar in response to COVID-19 that have enabled corporations to hold their meetings virtually, particularly voting) and recommendations 11-12 (i.e. modernising provisions re: contact details, etc.) also concern flexibility and helping our members overcome unforeseen obstacles in governance due to the pandemic and/or archaic governance requirements. As such, these changes as reflected in the exposure draft of the Bill are supported.

If it were not for the Treasurer’s temporary provision, titled: *Corporations (Coronavirus Economic Response) Determination (No. 1) 2020*, that allowed the overriding of companies' constitutional requirements that may have inhibited them from holding virtual or hybrid AGMs in 2020-21, NACCHO itself would have struggled to hold its 2020 calendar year AGM. Many of our members faced a similar dilemma and this change is welcome for our sector.

Other provisions allowing for modern circumstances and greater use of IT (e.g. recommendation 44 re: storage of information) are also supported by NACCHO.

(iv) Independent directors

In relation to recommendation 40 in the review (i.e. the capacity to appoint independent directors = ‘246 17 Directors may appoint independent directors’), NACCHO has received some very different views from our members and affiliates. Some argue that this flexibility is needed to bring in specific expertise onto boards (e.g. recruiting a child psychologist in an area where there may be a cluster of youth suicides); while others argue that these appointments are counter to the fundamental principle of Aboriginal community control and that expertise can be accessed outside of a board appointment.

NACCHO can see both views. Overall, NACCHO prefers to see arrangements in place that allow this flexibility and that, ultimately, it is up to the boards and their community members at the local level to decide whether they use such a provision or not. Furthermore, the one-year timeframe for these appointments should guard against misuse or the potential dilution of community control in situations where there is some dysfunction on a board or with a temporarily divided member-base.

(v) Further reviews

Recommendations 21 and 32 (i.e. a targeted reviews undertaken to consider further streamlining arrangements for corporations that are also registered charities and establishing a special class of corporation in relation to for-profit entities) need further information and, if pursued further, would require close engagement with Aboriginal and Torres Strait Islander leadership to garner support.

The rationale behind these two targeted reviews needs to be spelt out more clearly. It also needs to be explained how such a lengthy processes of review (now in its third year) and consultations have not already served to tease-out the issues. NACCHO is not convinced that these reviews are a sensible use of resources.

If they are to proceed, it will be necessary to engage with us closely on them, lest we have further instances where the terms of reference are too narrow and there is, subsequently, little genuine engagement with the sector and/or the Aboriginal and Torres Strait Islander leadership. Again, if NIAA and other agencies are serious about priority reform area 1 of the new National Agreement on Closing the Gap, then they have a perquisite opportunity to demonstrate this by genuinely engaging with us.

NACCHO has similar concerns about recommendation 3 (= ‘643 1 Review of operation of Act’). In principle, NACCHO supports periodic legislative review and the timeframe of seven years seems appropriate, but the loose cap of 18 months for completion will have the effect of encouraging tardiness and prolonging uncertainty within our sector during its term. If we have a lengthy and disruptive 1½-year review within every seven-year period it will feel as if we are in a constant cycle of review. Aboriginal and Torres Strait Islander people are already over-reviewed, monitored and scrutinised.

Therefore, the periodic review process needs to be tightened up. However, if the 18-month period of these reviews cannot be *shortened* (due to Parliamentary timeframes), then the period between the reviews needs to be *lengthened* to reduce the impost on our members and consequent disruption.

Ideally, NACCHO suggests a six-month review (with one three-month extension period allowed, upon request) held within every seven-year period.

(vi) Two-member corporations

NACCHO does not support recommendation 19 (i.e. a change to allow for the incorporation of two-member corporations where only one member is Indigenous = ‘201 117 How many votes a member has—corporation with only 2 members’), as it does not seem to be in accord with the general principle of Aboriginal community control and, critically, as there is a real danger that this provision may be ‘rorted’. For example, there may be a serious unintended consequence in which partnerships are formed in which Aboriginal and Torres Strait Islander people are manipulated by other interested parties seeking to profit from organisations with an Aboriginal status (e.g. advantages in Government procurement exercises).

At the very least, this measure needs further explanation. Fact sheet 4 provides a single sentence to explain it, which is insufficient.

(vii) Reduced accountability

NACCHO does not support changes that reduce an organisation’s accountability to members (e.g. recommendations 24, 39). They are counter to the fundamental principle of community control. We do not, therefore support recommendations that allow small corporations to avoid holding AGMs (= ‘201 175 Resolution by corporation not to hold upcoming AGMs’). However, NACCHO does support the flexibility included in the exposure draft to allow adjustments to AGM dates, due to natural disasters or significant events (= ‘201 37 Altering place, date or time of meeting in certain circumstances’).

Transparency and accountability to members is very important and we encourage any revisions to be targeted towards greater transparency around operations and membership. Furthermore, AGMs serve as a touch-point for the communities the corporations serve and provide a familiar means for members to ask questions about their management and results achieved (or lacking).

We also support the notion that organisations should be able to determine the nature of the contact with their members that is acceptable, in consultation with their members. This is a matter of self-determination. For example, this process should be made at a general meeting by way of resolution and revised annually to ensure members remain satisfied with the method and frequency of contact.

(viii) Redaction of member information

NACCHO strongly supports recommendation 13 (= ‘180 26 Member or former member may request redaction of information’, etc.) in which changes have been drafted allowing personal information of members to be able to be redacted, if requested. This provides a safety net for members who may be experiencing domestic violence or other exceptional circumstances. NIAA should be congratulated for listening to the sector’s concerns about this issue and drafting the legislation to accommodate the change.

(ix) Administrative burden and discriminatory standards

Some of the changes (and existing provisions, for that matter) are discriminatory in that different standards are expected for Aboriginal organisations. The CATSI Act and many of the changes set higher standards and penalties for directors and officers than what other Australians are expected to meet under the *Corporations Act 2001* and regulatory framework of the Australian Securities Investment Commission (ASIC) and the Australian Charities and Not-for-profits Commission (ACNC).

NACCHO acknowledges that some effort has been made to bring the CATSI Act requirements in organisations more closely into line with the *Corporations Act 2001* (as claimed in Factsheet 14), but there are still troubling differences in the changes that discriminate unnecessarily.

The most concerning issue relates to the reporting arrangements for corporations (including their subsidiaries) to members and ORIC concerning the work history and remuneration of key management personnel (recommendations 33-4 in the review [= ‘148 Section 333 5’, etc. in Part 8]). This was also an issue expressed by one of our members, Danila Dilba, in its own submission in October 2020 (at p. 5), which we fully support. The Government has justified this approach by stating that it is consistent with the remuneration reporting done by listed companies. However, listed companies are large businesses on the ASX trading in shares. Many Aboriginal and Torres Strait Islander corporations are not of this nature nor size. Remuneration reports are not a requirement for normal companies including not-for-profits incorporated under the *Corporations Act 2001* including Aboriginal and Torres Strait Islander companies. We are not opposed to greater transparency around remuneration ‘in principle’ for all corporations if it will have a positive impact, but the requirements should not discriminate.

We are not sure whether or not the Government perceives that there is a problem with remuneration being too high in CATSI corporations. If so, we need evidence that justifies that this is, in fact, the case and evidence that its solution in the Bill is the best approach. In the meantime, there is no doubt for us that the measure will be disruptive and impact on our capacity to recruit and maintain key management personnel and directors.

If it is not appropriate to introduce this measure for mainstream companies similar in size and nature to CATSI corporations, the Government needs to explain why. Otherwise, there is a serious risk that Aboriginal and Torres Strait Islander stakeholders will perceive this measure as racially discriminatory, whatever the intentions of the Government.

We have other concerns including the penalty provisions in the legislation which are difficult to understand and appear to be wholly at the discretion of the Registrar. More clarity needs to be provided to safeguard against excess or misuse.

**Conclusion**

NACCHO supports NIAA’s intent in bringing the CATSI Act in line with other Commonwealth legislation with a Bill and with regular reviews and improved governance, but repeats the point that it has headlined in its previous two submissions that the Government needs to involve Aboriginal and Torres Strait Islander leadership in *shared* *decision making*. This is a point that has also been made strongly by other prominent Aboriginal organisations (e.g. Aboriginal Peak Organisations NT, Central Australian Aboriginal Congress, Victorian Aboriginal Community Controlled Health Organisation, etc.).

Including a compartmentalised consultation element is not enough. Moreover, the lack of involvement of organisations like NACCHO in the decision-making process or in a steering group to providing advice, suggests that the Government in this instance has lost a critical opportunity to demonstrate its commitment to the first priority reform area under the new National Agreement on Closing the Gap (i.e. “Aboriginal and Torres Strait Islander people are empowered to share decision-making authority with governments to accelerate policy and place-based progress on Closing the Gap through formal partnership arrangements”).

As such, we cannot support the review or the Bill.

Unless the approach changes, the plans for two targeted reviews and a cycle of seven-year reviews for the Act will labour under the same criticism.

NACCHO is also concerned that some measures will result in an increased administrative and compliance burden for corporations and may even be discriminatory. There are also certain measures that we oppose. We do not support any of the amendments that dilute accountability and transparency for members (e.g. less frequent AGMs). Nor do we support the inclusion of ‘two-director’ organisations, given the strong possibility of manipulation of this provision by non-Aboriginal people who may wish to take advantage of Aboriginal status.

We also urge the Government to reconsider the rejection of recommendation 1 of the review. A clear statement acknowledging community capacity and the significance of cultural traditions and safety in the operations of the CATSI Act would earn significant goodwill and guard against hasty punitive action when other solutions are available.

Notwithstanding these serious concerns, NACCHO does support certain elements in the exposure draft of the Bill. In particular, we support the modernisation of certain governance arrangements and the measures conceived to deliver greater flexibility, as well as the ability to appoint independent directors for 12-month periods, and the ability to redact sensitive personal information to protect vulnerable members.

NACCHO remains open to engaging closely with NIAA, ORIC and others should a more collaborative process be developed. We urge the Commonwealth to reconsider its approach before proceeding further with the draft Bill.

1. J. Arrazola, M. M. Masiello, S. Joshi, et al., ‘COVID-19 Mortality Among American Indian and Alaska Native Persons: 14 States, January-June 2020’ in Centre for Disease Control and Prevention *MMW Report*, no. 69, 2020, pp. 1,853-6. [↑](#footnote-ref-1)
2. https://coalitionofpeaks.org.au/wp-content/uploads/2021/04/ctg-national-agreement-apr-21-1-1.pdf. [↑](#footnote-ref-2)
3. NIAA, *Objects of the CATSI Act fact sheet*, p. 3 (https://www.niaa.gov.au/sites/default/files/publications/objects-of-catsi-act-factsheet.pdf). [↑](#footnote-ref-3)