



Senate Finance and Public Administration Committees
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**New South Wales
Aboriginal Land Council**
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**Re: NSW Aboriginal Land Council submission to the Senate Finance and Public Administration
Legislation Committee into the Corporations (Aboriginal and Torres Strait Islander) Amendment
Bill 2021 – September 2021**

NSW Aboriginal Land Council (**NSWALC**) is the peak body representing Aboriginal peoples across NSW. With over 23,000 members, NSWALC is the largest Aboriginal member-based organisation in Australia.

NSWALC and our network of 120 Local Aboriginal Land Councils (**LALCs**) across NSW are not for profit organisations and are accountable to our communities. A number of LALCs have investigated establishing separate entities and registering these under the CATSI Act but have been dissuaded from doing this by the increased level of rules and regulations under the CATSI Act, compared to the *Corporations Act 2001* and the regulatory framework of the Australian Securities Investment Commission (**ASIC**).

The CATSI Act was designed to provide a means for Aboriginal peoples to deliver services to our own communities. While NSWALC supports efforts to bring the CATSI Act in line with other Commonwealth legislation with improved requirements and governance, we reiterate the need to involve Aboriginal peoples in shared decision making surrounding the Act.

The lack of consideration of the issues expressed in previous submissions by Aboriginal organisations relating to the CATSI Act Amendment Bill is disappointing.

NSWALC echoes the statements made by the National Aboriginal Community Controlled Health Organisation (**NACCHO**) in their various submissions throughout the amendment process. Although there are a number of positive elements in the Bill that present a means for facilitating self-determination for Aboriginal corporations, there are also a number of recommendations and mechanisms in the Bill that we do not support.

NSWALC supports amendments to the CATSI Act that promote greater flexibility for Aboriginal organisations to grow and adjust to changing circumstances. NSWALC supports item 116 (section 201-65) of the Amendment Bill which enables corporations to hold their meetings virtually to allow for full participation of members.

NSWALC does not support the discriminatory provisions that set different expectations of standards for Aboriginal organisations. The CATSI Act and many of the proposed changes set higher standards and penalties for directors and officers than what other Australians are expected to meet under the

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Corporations Act 2001 and regulatory framework of ASIC and the Australian Charities and Not-for-profits Commission (**ACNC**).

In particular, NSWALC does not support the reporting arrangements for corporations (including their subsidiaries) to members and ORIC concerning the work history and remuneration of key management personnel (Items 174 to 195 in the CATSI Amendment Bill).

These measures will also have the additional adverse impact of increasing administrative and compliance burdens for Aboriginal corporations.

The Government has justified this approach by stating that it is in line with the remuneration reporting for 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 companies including not-for-profits incorporated under the *Corporations Act 2001*. NSWALC is not opposed to greater transparency around remuneration, but the requirements should not discriminate and treat Aboriginal corporations differently from non-Aboriginal corporations.

NSWALC also does not support Items 108 to 110 in the CATSI Amendment Bill, which support the establishment of a two-member corporation where only one member is an Aboriginal or Torres Strait Islander person as long as that person has the deciding vote. This change is not in accordance with the general principle of Aboriginal community control and could lead to the exploitation of Aboriginal people. For example, the formation of partnerships seeking to profit from organisations with an Aboriginal status.

The review process for the CATSI Act and the drafting of the Amendment Bill has not been transparent or evidence-based, and has not included Aboriginal and Torres Strait Islander stakeholders within necessary decision-making

NSWALC urges the reconsideration of issues highlighted within the submissions of Aboriginal organisations before proceeding further with the Bill.

Yours sincerely,

Yuseph Deen
Interim Chief Executive Officer
NSW Aboriginal Land Council

Date: 20 September 2021