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14 October 2022

Senator Linda White (Chair)
Joint Select Committee on National Anti-Corruption Commission Legislation
Parliament House
Canberra ACT 2600

NACC@aph.gov.au

Dear Senator White & Committee Members,

Transparency International Australia is pleased to provide the attached submission with respect to the National Anti-Corruption Commission Legislation. As the Australian chapter of the world's leading anti-corruption civil society organisation, Transparency International Australia first called for this reform in 2005, and has been pleased to contribute to every parliamentary inquiry, consideration and debate relating to this issue since that time. This includes:

- Research and evidence to the Senate Select Committee on a National Integrity Commission (2017) from our joint Australian Research Council-funded national integrity system assessment of Australia, led by Griffith University's Centre for Governance and Public Policy
- Our co-publication with The Australia Institute of key design principles for a national anti-corruption body (2017), reflected in the Government's commitments in 2019 and 2022
- Our role as principal advisors to Cathy McGowan MP and Rebekha Sharkie MP on the development of the *National Integrity Commission Bill 2018 No. 1,* since also reflected in the Greens' *National Integrity Commission Bill 2018 No. 2* and Dr Helen Haines' *Australian Federal Integrity Commission Bill 2020*
- Our active participation in consultations on the former government's Commonwealth Integrity Commission Bill (exposure draft 2020)
- The final report of our joint Australian Research Council-funded research with Griffith University, Australia's National Integrity System: The Blueprint for Reform (November 2020).

Our attached submission draws on this research and prior contributions. We are also pleased to bring insights from Transparency International's global experience in the fight

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against corruption, as publishers of the annual worldwide Corruption Perceptions Index (CPI).

Professor A J Brown (Griffith University), board member of Transparency International and Transparency International Australia, and I will be happy to expand on our submissions in person to the Committee.

Sincerely,

Clancy Moore
CEO, Transparency International Australia

SUMMARY – NATIONAL ANTI-CORRUPTION COMMISSION LEGISLATION 2022

1. Scope of corrupt conduct

Transparency International Australia congratulates the Government on proposing a definition of corrupt conduct, to define the Commission's investigative jurisdiction, which is simpler, broader, more flexible and less technical than most previous Australian precedents.

The definition (cl. 8) would benefit from an additional sub-section or note to put beyond doubt that 'corrupting' actions of **third parties or private individuals can be investigated and reported upon even if the relevant public officials are not themselves aware** that their powers or functions have been, or are intended to be, corrupted.

2. Public hearing powers – recommended new best practice

Transparency International Australia supports the principle that compulsory investigative hearings should normally be held in private, unless there is a clear public interest in hearings on particular matters being held in public, in the manner of a royal commission.

The requirement that hearings may only be held in public where the Commissioner is satisfied that **exceptional circumstances** exist, as proposed, is not an accurate or useful threshold for this purpose, and poses dangers for the effective operation of the Commission.

Transparency International Australia instead recommends that the Commonwealth move further towards legislating **a new, best practice form** for the public interest tests that must be satisfied to justify the taking of evidence in public, by:

1) Strengthening, through greater clarity, that evidence must be given in private if a public hearing might prejudice **a person's safety** or **actual, planned or likely criminal proceedings;**
2) Empowering the **Inspector of the National Anti-Corruption Commission (NACC) to independently verify that the Commission has appropriate procedures and safeguards** to ensure public hearings are only used when appropriate, and investigate any concerns that safeguards are not being followed;
3) If the term 'exceptional circumstances' is retained – **defining that term** to mean that on balance, the circumstances are such that it is (a) either necessary or preferable, and (b) appropriate, for evidence to be given in public rather than in private (or similar).

3. Whistleblower protection

Transparency International Australia calls on the Committee to recommend that the Government proceed, as a matter of urgency, to fill the **major gaps in federal whistleblower protections** left by the NACC legislation – in particular by:

- Committing to establish an independent **Whistleblower Protection Authority**. This could stand alone or be co-established with an agency such as the NACC, as proposed by the Parliamentary Joint Committee on Corporations (2017) and *National Integrity Commission* and *Australian Federal Integrity Commission Bill* (2018, 2020);
- Ensuring its promised review of Commonwealth whistleblower protections takes a comprehensive approach to **both public sector and private sector protections** to bring greater effectiveness, simplicity, consistency and accessibility to these protections, and not a piecemeal approach based on the out-of-date Moss Review (2016);
- Reforming the *Crimes Act 1914* and related legislation to fully **protect public interest journalism and confidentiality of journalists' sources** to a higher standard and more comprehensively than as proposed so far in the NACC Bill.

4. Strengthened independence and oversight

Transparency International Australia calls on the Committee to recommend that the Government move further towards guaranteeing the independence and sustainability of the Commonwealth's core integrity agencies by:

- Requiring **a special majority of the Joint Standing Committee** (e.g. two-thirds) to approve the proposed appointments of the National Anti-Corruption Commissioner, any Deputy Commissioners and the Inspector, rather than a simple majority (e.g. Government members alone with casting vote) as is presently the case;
- Pursuing consistent reform across **all the Commonwealth's core integrity agencies** to recognise the NACC and all of these as Officers of the Parliament, with their own, independent budget track.

5. A comprehensive national anti-corruption plan

Transparency International Australia welcomes examination by the Parliament of further key integrity priorities including stronger regimes for **lifting and enforcing parliamentary standards,** removing undue influence and corruption risks from **political donations and campaign finance**, and protecting **truth and fairness in political communication**.

We also congratulate the Government on giving the proposed NACC strong **corruption prevention, educative and integrity-building** functions, and a central role in oversighting the handling of corruption as part of strengthened integrity across Commonwealth government. We also welcome the Government's commitment to establish a strong and effective public beneficial ownership register.

However, the Commonwealth's anti-corruption responsibilities **do not stop** with creation of a new public sector anti-corruption agency and other 'in house' reforms. We call on the Committee to recommend the Government move as a matter of priority to address substantive issues central to Australia's worsening anti-corruption reputation, including:

- The need for **a coordinated, ongoing national anti-corruption plan** to prioritise and sustain national efforts, including enduring mechanisms for engagement with civil society, business, State and Territory governments and other actors;
- Overdue reforms and increased enforcement of Australia's laws on **bribery of foreign officials, anti-money laundering, corporate ownership transparency**, extractive industry transparency, and corporate criminal liability generally, to bring Australia up to international standard;
- Increased resources to support implementation of Australia's commitments under the **Open Government Partnership**, **UN Convention Against Corruption** and other international initiatives, including through the aid program, as part of the coordinated approach recommended above.

SUBMISSION – NATIONAL ANTI-CORRUPTION COMMISSION LEGISLATION 2022

1. SCOPE OF CORRUPT CONDUCT

Transparency International Australia congratulates the Australian Government on proposing a definition of corrupt conduct for the Commission's investigative jurisdiction (clause 8 of the Bill), which is simpler, broader, more flexible and less technical than previous State precedents.

In particular, we welcome par 8(1)(a) stipulating that the Commission may investigate, as potentially corrupt, any conduct of any person that could adversely affect, either directly or indirectly, the honest or impartial exercise or performance of any public official's powers, functions or duties.

This aligns with Transparency International Australia's recommendations that the Commission have comprehensive scope to investigate any conduct – criminal or non-criminal – which 'undermines confidence in the integrity of public decision-making' (Australia's National Integrity System: Blueprint for Action, B3, Action 3).

In light of High Court precedent, there is debate about whether par 8(1)(a) is clear enough that conduct by second or third parties can adversely affect, or seek to adversely affect, the honest and impartial exercise or performance of public powers and duties, without the public officials themselves acting dishonestly (e.g. where manipulated or unduly influenced) or knowing that the impartiality of their processes could be adversely affected.

Clause 8 would benefit from an additional sub-section or note to put beyond doubt that 'corrupting' actions of **third parties or private individuals can be investigated and reported upon even if the relevant public officials are not themselves aware** that their powers or functions have been, or are intended to be, corrupted.

For example: 'For avoidance of doubt, it is not necessary for the purposes of paragraph 8(1)(a) that any public official knows or intends that the honest or impartial exercise of their powers or performance of their functions or duties has been, or could be adversely affected.'

2. PUBLIC HEARING POWERS – RECOMMENDED NEW BEST PRACTICE

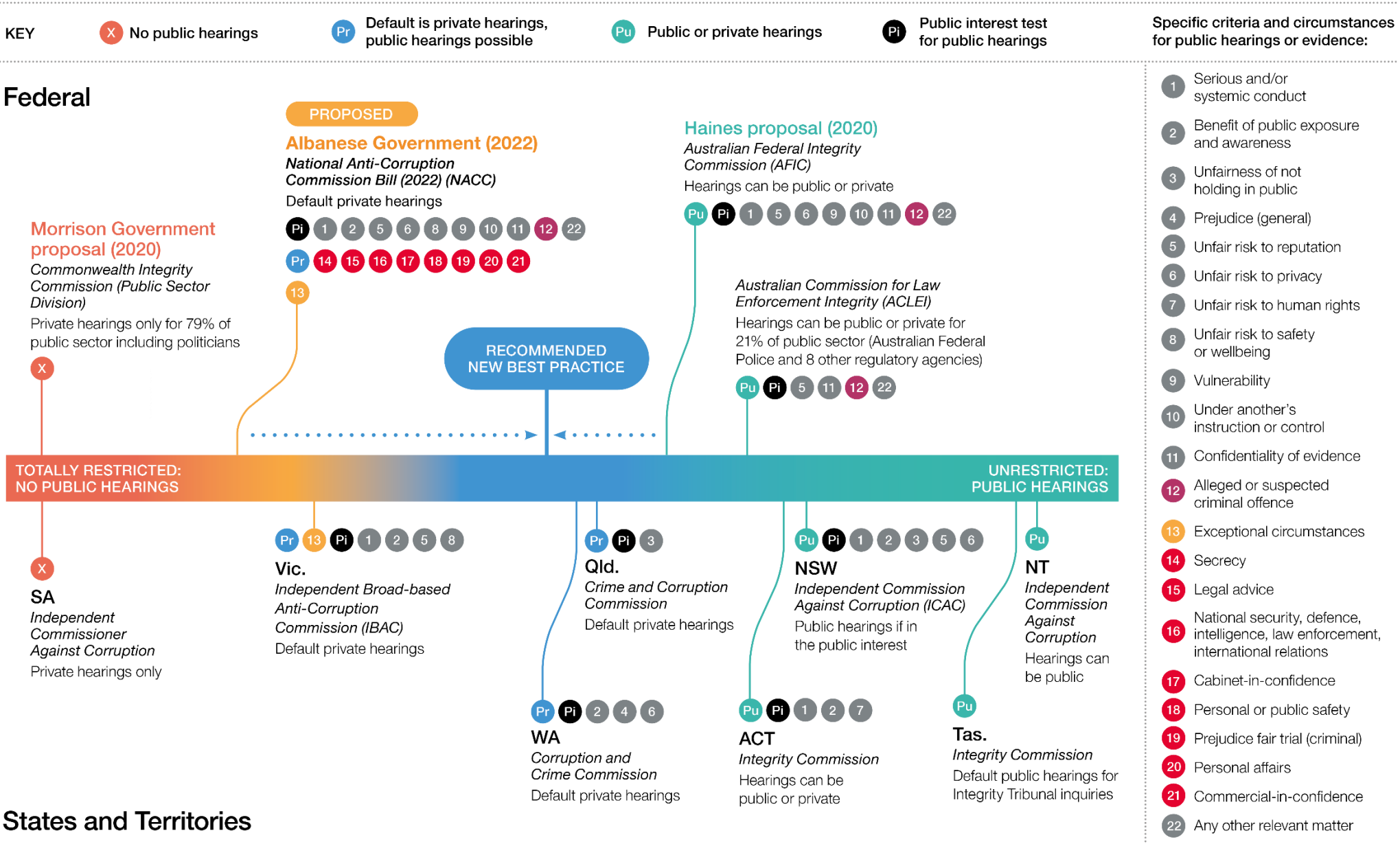
The holding of public hearings, or partial public hearings, are important to build the public's trust in the NACC, bring new evidence to light and investigate corruption effectively. Transparency International Australia does support the principle that compulsory investigative hearings should normally be held in private, unless there is a clear public interest in hearings on particular matters being held in public, in the manner of a royal commission (cl. 73(1)).

The requirement that public hearings may only be held where the Commissioner is satisfied that **exceptional circumstances** exist, as proposed (par 73(2)(a)), is not an accurate or useful threshold for this purpose. It poses dangers for the effective operation of the Commission – whether through tactical litigation or inaccurate political expectations or both. This is due to its vagueness and uncertainty, as well as its underlying implication that specific but undefined extraordinary circumstances must exist to justify a public hearing.

'Exceptional circumstances' is simply unnecessary because, as shown in Figure 1, the proposed test is **already substantially more restrictive** than in Victoria or any other Australian jurisdiction with public hearing powers.

Figure 1
Australian anti-corruption commission public hearing powers

Griffith UNIVERSITY Queensland, Australia
TRANSPARENCY INTERNATIONAL AUSTRALIA



Nook STUDIOS

Clauses 74 and 227(3) of the Bill are already unique in Australia, in the breadth of information that they add, including 'sensitive information' (s.227(3)), which **must only be received in private** and **cannot** be the subject of a public hearing. Along with official secrets, legal advice and national security, defence and intelligence information, 'sensitive information' includes information which the Commission is satisfied:

- Would involve disclosing **Cabinet** deliberations or decisions – cl. 227(3)(c)(*i*)
- Could endanger **a person's life or physical safety** – cl. 227(3)(i)
- Could prejudice the protection of **public safety** – (3)(j)
- Would prejudice the **fair trial** of any person – (3)(k)
- Would involve unreasonably disclosing a person's **personal affairs** – (3)(n)
- Would involve unreasonably disclosing confidential **commercial** information – (3)(o).

This level of restriction on public evidence is not present in any other comparable legislation (including the existing *Law Enforcement Integrity Commission Act 2006*, beyond the limited content of ss. 89 and 90). These restrictions therefore already provide **significant additional safeguards**—some may say too many—on when public hearings can be used.

To address any perceived weakness in these provisions, Transparency International Australia recommends that the Commonwealth move further towards legislating **a new, best practice form** for the public interest tests that must be satisfied to justify the holding of public hearings, **without** the vague 'exceptional circumstances' requirement.

We recommend the desired new best practice standard could be achieved through the following three steps:

1) **Strengthen, through greater clarity, that evidence must be given in private if a public hearing might prejudice a person's safety** or **actual, planned or likely criminal proceedings** associated with the investigation.

   This can be done in two simple ways, by:

   - Making it **mandatory**, not optional, that the Commissioner must (not may) consider all the factors in cl. 73(3) when deciding whether to hold a public hearing.

     This mandatory approach is taken in both the existing *Law Enforcement Integrity Commission Act 2006* (s.82(4)) and the *Australian Federal Integrity Commission Bill 2020* proposed by Dr Haines (cl.86(4)). A mandatory approach is also taken in some State legislation including in New South Wales.

     Making this mandatory would also be a clearer reflection of the actual operation of the Bill, since the effect of the s.74 and s.227(3) requirements, above, mean that, in fact, the Commissioner must already consider most of these factors – and properly so – before deciding that public questioning of a witness is appropriate.

   - Making it **clearer that key restrictions apply to public hearings** by elevating these from s.227(3) and including them directly in s.74, in their own right.

In particular, s.74 should make it clearer that evidence cannot be taken in public if in the assessment of the Commissioner, this might endanger ***a person's life or physical safety***. This principle is already elevated to Part 7 of the Bill for another decision by the Commissioner, preventing the public dissemination of evidence taken in private if it 'might prejudice a person's safety' (par 77(a)). It would be consistent and preferable if this was also done for public hearings themselves.

It should be noted that prejudicing a person's safety would include risk of self-harm.

Similarly, s.74 should make it clearer that where a person has been or will be ***charged with a relevant criminal offence***, or the evidence is such that the Commission already considers it likely that it will ***refer or recommend a criminal prosecution*** of the person, then a public hearing should not normally be used to compel that person to provide further evidence relating to the alleged offence unless there are some other overriding public interest reasons for doing so.

Best practice will include procedures to ensure the Commission maintains an ongoing assessment of the feasibility and merit of criminal prosecution, wherever an investigation produces apparent (prima facie) evidence of a criminal offence, and then prioritises the criminal justice process or other formal processes as the means of ensuring appropriate action. This is preferable to using public investigative hearings for this purpose, which cannot impose a sanction (cl. 150(2)) and from which evidence cannot be used against the person in any event (cl. 113).

Further details on the benefits of codifying best practice in this way can be found at Australia's National Integrity System: Blueprint for Action (B12-B14, Action 5).

A strengthened requirement could more closely correspond with the existing par 77(b), preventing the public dissemination of evidence taken in private if it 'would reasonably be expected to prejudice a witness' fair trial, if the witness has been charged with a relevant offence or such a charge is imminent'. This is a different, more specific and useful formulation than the general restriction in par 227(3)(k).

2) **Empower the Inspector of the NACC to independently verify that the Commission has appropriate procedures and safeguards to ensure public hearings are only used when appropriate, and to fully investigate any concerns that the procedures and safeguards have not been followed.**

It has been suggested that an additional safeguard could be to reduce the Commission's power to compel evidence in a public or private hearing, by requiring it to apply to an independent judicial or administrative officer for **authority via warrant** to use those powers – as with a search warrant or an authority to intercept telecommunications.

However this reduction in the Commission's discretion would set a difficult precedent, and likely be unworkable, given that:

- It is inherent in the role of an independent royal commission to use its own discretion to exercise these powers (the model of a standing royal commission represents the agreed consensus of all parties in the Parliament – with royal commissions being subject, of course, to no such requirement);
- No such procedure is required in the case of other Commonwealth agencies exercising coercive powers (e.g. the Australian Criminal Intelligence Commission);
- In practice, requiring independent authority would likely be unworkable because the nature of the process of questioning a witness, in any given hearing, means that if questions of boundaries of authority arise during the hearing itself (e.g. as a result of answers given), the entire effectiveness of a hearing can be defeated by the need to suspend the hearing to seek a new or different authority, potentially for each and every question asked.

A better alternative is to provide **independent oversight** of the way in which the Commission is exercising these powers, by enhancing the role of **the Inspector of the NACC** as an independent officer of the Parliament (Part 10, Division 2 of the Bill).

If enhanced, the Inspector's role can provide a high degree of ongoing, specialist, close scrutiny of the way the Commission proposes to and actually exercises its powers, which is more effective and workable both for the Commission and for affected individuals, than requiring warrants from judicial or administrative officers.

Specifically, the functions of the Inspector (cl. 184) should be clarified and enhanced by:

- Adding a function of **auditing the policies, procedures and practices** of the Commission relating to its exercise of its coercive powers (including its public hearing procedures) to ensure compliance with the Act and with the public interest;
- Adding an express function of auditing the Commission's **compliance** with those policies and procedures;
- Narrowing and making explicit that the Inspector's function of investigating complaints about the NACC (par 184(1)(e)), is for complaints from any person about alleged **unlawful, improper, unfair or oppressive use of power** by the NACC or its staff, including its public hearing power (as opposed to complaints of any kind, such as staff grievances);
- Removing the requirement that the Inspector may only conduct an investigation into corrupt conduct within or by the NACC if of the opinion that the issue could involve corrupt conduct that is **serious or systemic** (cl. 210(3), par 215(3)(b)). There is a wider public interest in ensuring that the

Commissioner has full flexibility to investigate and report on any such complaints or issues, as needed.

These enhancements would make the Bill more consistent with Dr Haines' *Australian Federal Integrity Commission Bill 2020*, Part 12 (cl. 258), which already contains some enhanced provisions to this effect.

We also encourage the Committee to closely consider the submission of Transparency International Australia member, Mr Bruce McClintock SC, Inspector of the NT ICAC and NSW Law Enforcement Conduct Commission, and former Inspector of the NSW ICAC.

3) **If the term 'exceptional circumstances' is retained – define that term to mean that on balance, the circumstances are such that it is (a) either necessary or preferable, and (b) appropriate, for evidence to be given in public rather than in private.**

Transparency International Australia believes that with the above reforms, the Bill would be close to new best practice for public hearing powers, without requiring any unhelpful additional requirement for 'exceptional circumstances'.

However, if a requirement for 'exceptional circumstances' is retained, then greater certainty should be provided by defining the term to accord with the factual, predictive meaning implied by the Attorney-General in his second reading speech, and other parliamentarians. This is that public hearings should be exceptional by way of incidence or frequency, relative to the incidence or frequency of private hearings, and not in other, for example, absolute terms.

For example, 'exceptional circumstances' in par 73(2)(a) could be defined to mean 'circumstances in which the Commissioner, having had regard to the requirements of sections 73 and 74 of the Act, considers that, on balance, it is (a) either necessary or preferable, and (b) appropriate, for evidence relating to a corruption issue to be given in public rather than in private'.

3. WHISTLEBLOWER PROTECTION

Effective protection of public and private sector whistleblowers (employees and other insiders) is instrumental to the successful operation of the National Anti-Corruption Commission, and to credibility of the Commonwealth's entire anti-corruption efforts.

Transparency International Australia congratulates the Government on ensuring that **any whistleblower – indeed any person** – can approach the NACC directly with any complaint or information relating to suspected corruption in or affecting federal government.

However, it is disappointing that the Government has not taken the opportunity of developing the NACC legislation to take greater steps towards addressing the known, major gaps in Commonwealth whistleblower protection arrangements, given:

- The extent of those gaps as identified unanimously by the Parliamentary Joint Committee on Corporations and Financial Services (2017) including the need for reformed protections, greater consistency, and new enforcement arrangements including a whistleblower protection authority, across the public and private sectors;
- The Government's long awareness of these gaps, having gone to the 2019 election with a commitment to introduce a whistleblower protection authority, comprehensively overhaul the protections, and establish a reward scheme for whistleblowers;
- The Government's promise before the 2022 election that its National Anti-Corruption Commission would be 'extremely similar' to Dr Haines' *Australian Federal Integrity Commission Bill* model – which includes, in Part 9, a well-developed scheme for a whistleblower protection commissioner in line with the 2017 PJC recommendations.

For details of the known deficiencies in Commonwealth whistleblowing arrangements, see the Parliamentary Joint Committee report above, and:

- Transparency International Australia's seven point plan for whistleblower protection reform (October 2019) (for more detail, see also Professor A J Brown's 2019 Sir Henry Parkes Oration, Safeguarding Democracy)
- Australia's National Integrity System: Blueprint for Action, Focus Area E: Public Interest Whistleblowing (November 2020).

We welcome the fact that the NACC Bill includes a **basic anti-reprisal provision** (cl. 29) making it an offence to cause detriment to any person – including whistleblowers – who makes a referral or provides information to the Commission. This type of provision is standard for similar agencies. **However**, this anti-reprisal provision:

- Do not extend full whistleblower protections (including rights to compensation and remedies) to NACC whistleblowers;
- Replicates, rather than remedies, one of the known problematic elements of existing Commonwealth whistleblowing laws (a prerequisite that the offender's 'belief or suspicion' regarding the disclosure must be established to be part of the reason for the offending action – par 29(1)(b));
- Does nothing else to address known gaps and deficiencies, including the difficulties that Commonwealth agencies have had effectively administering the *Public Interest Disclosure Act* regime, as reinforced by recent and current Commonwealth prosecutions of whistleblowers, as well as difficulties with whistleblower protection enforcement experienced by existing State anti-corruption commissions including the NSW ICAC and Queensland Crime & Corruption Commission.

We also welcome that the NACC Bill acknowledges the importance of protecting the identity of **journalist's confidential sources** (cl. 31) and inserts a public interest test for any search warrant involving a journalist (cl. 124(2A)&(2B)). However, this does not address the existing, wider lack of public interest protections for journalists and sources,

including the need for a rebuttable presumption in favour of protecting sources and public interest journalism, rather than this being simply a consideration to which officials must 'have regard'.

While the Attorney-General's second reading speech for the NACC Bill indicated the Government's commitment to reform parts of Commonwealth whistleblowing arrangements – via implementation of the now out-of-date **Moss Review (2016)** recommendations for limited reforms to the public sector *Public Interest Disclosure Act 2013* – this commitment goes little way towards addressing the full scope of issues, above.

Given the centrality of these issues to effective operation of the NACC as a new cornerstone of Australia's national integrity system, Transparency International Australia therefore calls on the Committee to recommend that the Government proceed, as a matter of urgency, to fill the **major gaps in federal whistleblower protection** left by the NACC legislation – in particular by:

- Committing to establish an independent **Whistleblower Protection Authority** – whether stand alone or co-established with an agency such as the NACC, as proposed by the Parliamentary Joint Committee on Corporations (2017) and the *National Integrity Commission* and *Australian Federal Integrity Commission Bills* (2018, 2020);
- Ensuring its promised review of Commonwealth whistleblower protections takes a comprehensive approach to **both public sector and private sector protections** in order to bring effectiveness, simplicity, consistency and accessibility to these protections, not a piecemeal approach based on the out-of-date Moss Review (2016);
- Reforming the *Crimes Act 1914* and related legislation to fully **protect public interest journalism and confidentiality of journalists' sources** to a higher standard and more comprehensively than as proposed so far in the NACC Bill.

4. STRENGTHENED INDEPENDENCE AND OVERSIGHT

Transparency International Australia welcomes the intended political and institutional independence of the Commission, under the supervision of the Parliament's Joint Standing Committee on the NACC assisted by the Inspector.

These arrangements are critical to ensuring the Commission's sustainability. Furthermore, they are key - irrespective of the Government in power - to protecting it from real or perceived politicisation, given the sensitive role it will inevitably play if it properly fulfils its responsibilities to identify and address corruption issues across the full spectrum of federal public officials.

However, the proposed mechanisms do not yet reach a standard of national or international best practice, in two respects which are outlined below. Further background on recommended best practice can be found at: Australia's National

Integrity System: Blueprint for Action, Focus Area A, A8-A3 (Action 2: Guarantee sustainable funding and independence).

Transparency International Australia calls on the Committee to recommend that the Government move further towards guaranteeing the independence and sustainability of the Commission, and the Commonwealth's other core integrity agencies, by:

- **Requiring a special majority of the Joint Standing Committee (such as two-thirds) to approve the proposed appointments of the National Anti-Corruption Commissioner, any Deputy Commissioners and the Inspector.**

  This can be done by adding a sub-clause to cl.178, for example: '(5) A decision of the Committee to approve a proposed recommendation under this section must by made by a special majority of two-thirds of the members of the committee voting on the subject.'

  Currently, the composition of the Committee is such that the Government, by use of the Chair's casting vote, could secure approval of a recommended Government appointment even if the entirety of the rest of non-Government members believed that the proposed appointment was **unacceptable**. Even if unlikely, experience shows this is possible, leaving an unacceptable risk of real, perceived or alleged Government capture or politicisation, which undermines respect for the Commissioner and the agency.

  A special majority of two-thirds would ensure that the Government could not appoint a Commissioner unless the appointee was also formally supported by at least two members of the Opposition or both cross-bench members of the Committee.

- **Pursuing consistent reform across all the Commonwealth's core integrity agencies to recognise the NACC and others as Officers of the Parliament, with their own, independent budget track.**

  While the National Anti-Corruption Commissioner is constituted as an independent statutory officer, their status and accountability as an independent, core integrity agency should be clarified by stipulating that they are an **Officer of the Parliament**, rather than the Executive. This would align with the Commonwealth Auditor-General, and indeed the Inspector of the NACC, as well as various integrity agencies in Victoria and other States, including recently accepted recommendations for reform in Queensland.

  Similarly, while it is welcome that the Joint Standing Committee will have a function of reviewing the **sufficiency of the NACC's budget and finances** (par 177(1)(g)), this is a considerably less strong procedure for ensuring sufficiency and sustainability of the NACC's budget than current best practice involving a truly independent budget track for all core integrity agencies. This has been adopted in New Zealand and either adopted or recommended in Victoria, NSW, the ACT and Queensland.

Rather than constituting the NACC as simply yet another ad hoc statutory authority, Transparency International Australia recommends that the Government and Parliament seize this opportunity to introduce greater **clarity, coherence, consistency and intelligibility** to the Commonwealth's integrity system, as recommended by the 2017 Senate Select Committee on a National Integrity Commission.

This would be supported by establishing a consistent, superior status and independent budget track for the **NACC** along with, at a minimum, the **Auditor-General**, **Ombudsman** and **Office of the Australian Information Commissioner**.

5. A COMPREHENSIVE NATIONAL ANTI-CORRUPTION PLAN

Transparency International Australia welcomes the Government's commitment to implement a public beneficial ownership register and to strengthen tax transparency and integrity of Multi-national Enterprises. We welcome the examination by the Parliament of further key integrity priorities in addition to creation of the NACC, including:

- stronger regimes for **lifting and enforcing parliamentary standards,** currently being examined by the Joint Select Committee on Parliamentary Standards; and
- removing undue influence and corruption risks from **political donations and campaign finance**, and protecting **truth and fairness in political communication**, as currently being examined by the Joint Standing Committee on Electoral Matters.

We also congratulate the Government on giving the proposed NACC strong **corruption prevention and integrity-building** functions, and a central role in oversighting the handling of corruption as part of strengthened integrity across Commonwealth government. This includes important corruption prevention objects (cl. 3(c) & (d)), functions (cl.17(g)-(j)), and powers to conduct corruption risk, vulnerability and prevention inquiries (Part 9).

However, the Commonwealth's anti-corruption responsibilities **do not stop** with creation of a new public sector anti-corruption agency and other 'in house' reforms. Rather, creation of the National Anti-Corruption Commission highlights:

- The need for the NACC and central Commonwealth policy agencies to take on **new lead agency functions** for operational, national and international anti-corruption efforts of great significance, beyond any expected of equivalent State agencies; and
- Australia's **lack of progress** in a range of anti-corruption policy areas on which the effective work of the NACC and other integrity, anti-corruption and law enforcement agencies depends, both nationally and internationally.

In Transparency International Australia's view, our slide on TI's Corruption Perceptions Index, and other global indices relating to public trust, will not be arrested and reversed simply by the creation of a single new agency. Rather the NACC must support and be

supported by a coherent, national approach to combatting corruption which formally engages many other agencies, governments and non-government stakeholders.

The need for such an approach was addressed by Dr Haines' *Australian Federal Integrity Commission Bill 2020* which required development of a **national integrity and anti-corruption plan**, and created a **national integrity and anti-corruption advisory committee** to assist the Commission and relevant agencies, federal and State, in developing and implementing such a plan (Part 3, Division 7). Further detail on the scope of priority issues that need to be addressed by such a plan can also be found at:

- Australia's National Integrity System: Blueprint for Action, Focus Area A (Action 1: Co-design and implement a comprehensive anti-corruption plan);
- Transparency International Australia's Integrity Pack for the 47th Parliament (June 2022).

The Government has elected not to take this opportunity to match Dr Haines' *Australian Federal Integrity Commission Bill 2020* and introduce a framework for a more coordinated, sustainable approach. However, there is no question such an approach is needed.

We refer the Committee to the UK Anti-Corruption Strategy 2017 – 2022 and the United States Strategy on Countering Corruption. Thus, we strongly urge the Committee to recommend the Government outline as a matter of priority how it will address the substantive issues central to Australia's worsening anti-corruption reputation, including by embarking on:

- Development of **a coordinated, ongoing national anti-corruption plan** to prioritise and sustain national efforts, including enduring mechanisms for engagement with civil society, business, State and Territory governments and other actors.
- Overdue reforms and increased enforcement of Australia's laws on **bribery of foreign officials, anti-money laundering, corporate ownership transparency**, extractive industry transparency, and corporate criminal liability generally, to bring Australia up to international standard;
- Increased resources to support implementation of Australia's commitments under the **Open Government Partnership**, **UN Convention Against Corruption** and other international initiatives, including through the aid program, as part of the approach recommended above.
