



**Submission to:**

**Senate Economics Legislation Committee Inquiry  
into the Australian Charities and Not-for-profits  
Commission (Repeal) (No. 1) Bill 2014**

**May 2014**

## Introduction

This submission outlines the Community Council for Australia (CCA) response to the Australian Charities and Not-for-profits Commission Repeal Bill 2014. This is the fourth submission by CCA in relation to the establishment of the Australian Charities and Not-for-profit Commission (ACNC). CCA has also appeared before the Senate Economics Committee, Joint Committee on Corporations and Financial Services, and the Senate Community Affairs Committee to give evidence on Bills relating to the ACNC.

It is important to note that this submission has been prepared in consultation with the membership of the CCA (see Appendix 1 list of CCA members) and key organisations in the not-for-profit sector. This submission does not over-ride any positions outlined in individual submissions from CCA members.

CCA want to make it very clear at the beginning of this submission how disappointed we are that the extensive level of consultation and engagement with the charities sector leading up to and since the establishment of the ACNC has been dismissed by a new Government intent on pursuing its own agenda.

CCA has consistently supported the establishment of an independent and responsive regulator for the charities and not-for-profit sector. As pointed out in previous submissions; *'The ACNC is not an instant quick fix, but a long term structural change that will become increasingly important over time. It will deliver real benefits to not-for-profit organisations, governments, regulators and the broader community.'*

This submission outlines the CCA position under the following seven sub headings:

1. The current context
2. The problem – market failure in regulation of the charities sector
3. Consultation and establishment of the ACNC
4. Support for the ACNC
5. The achievements of the ACNC since establishment – six key areas of activity
6. Considering the case for dismantling the ACNC
7. Conclusion.

## The Community Council for Australia

The Community Council for Australia is an independent, non-political member-based organisation dedicated to building flourishing communities primarily by enhancing the extraordinary work and effort undertaken within the not-for profit sector in Australia. CCA seeks to change the way governments, communities and the not-for-profit sector relate to one another. This includes establishing a regulatory environment that works for community organisations and not against them.

The mission of CCA is to lead by being an effective voice on common and shared issues affecting the contribution, performance and viability of not-for-profit organisations in Australia through:

- providing thought and action leadership
- influencing and shaping sector policy agendas
- informing, educating, and assisting the not-for-profit sector in responding to change and building sustainable futures
- working positively in partnership with government, business, and the broader Australian community.

## 1. The current context

The not-for-profit (NFP) sector contributes over \$43 billion or around 5% of GDP per annum, encompasses over 600,000 organisations ranging in size from large to very small, and is estimated to employ over one million staff (or eight per cent of all employees in Australia). Current turnover is estimated to be approximately \$100 billion annually. As best as we can identify, the current breakdown of income sources for the 50,000 or so economically active not-for-profit organisations is 33% fees and services or self-generated funds, 33% government funded, 33% through donations and sponsorships (ABS Satellite Account 2007).

Over the last decade, the growth in the NFP sector is second only to the mining industry and employment growth has exceeded any other industry.

These figures only tell a small part of the story. The real value of the NFP sector is in the often unattributed contribution to the quality of life we all experience in Australia. NFPs are at the heart of our communities and are what makes us resilient as a society.

The importance of the NFP sector is now being recognised around the world with almost every government putting in place measures to drive improvements. Smaller government and bigger community is a common theme, driven in part by savings, but also by a commitment to greater civic engagement and increased investment in the NFP sector.

In Australia there have been a range of initiatives seeking to promote social enterprise; reduce compliance costs for NFP organisations; encourage a diversification of financing options to build a more sustainable funding base; streamline and refine the regulation of NFPs and charities; establish less bureaucratic reporting requirements while building community transparency; increase philanthropy and improve relationships between government and the NFP sector. The establishment of the Australian Charities and Not-for-profits Commission (ACNC) is an important component of these reforms. The re-establishment of a Community Business Partnership led by the Prime Minister and a Centre of Excellence for the Civil Society are the most recently foreshadowed initiatives in this area. CCA supports all these activities.

The recent history of the NFP sector is framed by growth and reform, but there are a number of new issues emerging. The level of individual philanthropic giving has levelled out from the high in 2009. The ongoing increase in revenue available to governments is effectively stalling in real terms against a backdrop of increasing demands and higher community expectations. There is increased competitiveness for scalable social initiatives in areas such as housing, employment and other services.

There are some very important reports and recommendations arising from reviews and inquiries relating to the not-for-profit sector over the past five years that have yet to be fully considered or enacted by governments across Australia. CCA believes these recommendations need to be fully considered and implemented wherever possible. This includes initiatives in relation to tax concessions, deductible gift recipient (DGR) status, increased reporting and stewardship reviews of charitable trusts, and harmonisation of State and Territory legislation impacting on the not-for-profit sector.

Strengthening the charities and not-for-profit sector will result in a stronger and more responsive civil society. Enacting this policy goal requires a genuine partnership between the not-for-profit sector, governments and the community.

## 2. The problem – market failure in regulation of the charities sector

Prior to the establishment of the ACNC, if a charity wanted to hire a local hall at a discounted charitable rate, gain a concession on local rates charges, achieve a reduction in payroll tax, put forward a submission for funding, participate in a government tender process, register a fundraising activity or seek to claim a concession of any kind, the organisation must be able to produce some kind of bona fides, a kind of organisational passport. No such document existed – there was no public national register of charities. Charities were forced to provide copies of letters from the Australian Taxation Office that define their eligibility for taxation concessions as proof of their charitable status. The situation was difficult at best.

When you consider the range of regulatory bodies, different levels of government, different government departments all imposing their own form of regulatory requirements on the sector, the cost of inappropriate regulation becomes apparent. Below is a matrix of requirements one organisation experienced recently in seeking to gain approval to engage in an online national fund raising activity:

	ACT	NSW	SA	TAS	VIC	QLD	WA
Advertising requirements for a public notice						X	
Amount intended to raise in jurisdiction	X						X
Appeal manager details					X		
Auditors details	X	X	X			X	X
Bank account details		X			X	X	X
All Directors details (name, position and address)			X		X	X	
All Directors signatures					X		
Certified copies of supporting documents						X	X
Copies of supporting documents (not certified)	X	X			X		
Covering letter							X
Dates required for the licence				X			
Fundraising activities to be undertaken	X		X				X
Third party fundraising provider details			X		X		
Police check					X		X
State address if intending to fundraise in that state		X			X		
Statement of purpose			X	X	X	X	X

In 1995 the Industry Commission produced a report *'Charitable Organisation in Australia'* highlighting among other issues the unnecessary costs involved in charitable fundraising compliance requirements. The report recommended COAG be tasked with reducing these compliance costs. Twenty years later COAG has yet to address this issue despite numerous attempts.

There is overwhelming evidence that the previous systems for regulating charities did not work in the interests of the government, the community and charities themselves. Recent examples of reports calling for the establishment of one national regulator for charities in Australia include: the Senate Standing Committee on Economics, *Inquiry into the Disclosure Regime for Charities and Not-for-Profit Organisations* (2008), the Productivity Commission, *Contribution of the Not-for-Profit Sector* (2010), and the Henry Review into *Australia's Future Tax System* (2010). These recent reports follow on from previous reports all drawing the same conclusion which is why the vast majority of charities and NFPs have consistently supported the repeated recommendation to establish a single national regulator for charities in Australia.

CCA believes that if any other business sector or industry group experienced the kind of regulatory and compliance requirements imposed on the charities sector, it would have been addressed long ago.

### 3. Consultation and establishment of the ACNC

As noted in the introduction, this is the fourth submission CCA has provided to various parliamentary inquiries on the establishment of the ACNC. CCA is not alone. Hundreds of submissions have now been prepared and submitted in one of the most extensive consultations processes ever undertaken across the not-for-profit sector. Recent inquiries follow previous reviews and inquiries into the sector that recommended an independent regulator. In these previous reviews, the charities sector also provided hundreds of submissions. The ACNC Taskforce also undertook extensive consultations about both the ACNC establishing legislation and initial operational principles.

All these consultations around the establishment of the ACNC resulted in significant changes and improvements being included in the ACNC legislation that finally passed through parliament. While there were some continued concerns and issues with the final ACNC Establishment Bills, the fact is that the vast majority of submissions and consultations across the charities and not-for-profit sector supported the establishment of the ACNC. In the last CCA submission on this issue, it was noted that:

*The ACNC Establishment Bills provide the framework, the scope of powers and responsibilities for an independent regulator for the NFP sector. They are not operational guidelines. From the CCA perspective, ensuring the ACNC can do its job as a regulator is the central purpose of the ACNC Bills. CCA believes the Bills as now drafted meet their required objectives. They enable the ACNC to operate as a regulator for the sector determining charitable status, providing a one stop shop portal of information, and establishing a charities passport that can be adopted by governments and other regulators. The Bills also offer a measure of flexibility and responsiveness that will ensure the ACNC is able to adapt to the needs of a very wide range of NFP organisations.*

*CCA is particularly pleased to support the most recent changes to the Bills:*

- *Adding a new clause to the Objects in the legislation to make clear that the ACNC's role includes promoting a reduction in the regulatory burden on the NFP sector;*
- *Additional procedural fairness requirements where the ACNC Commissioner exercises particular powers under the legislation;*
- *Adding a statutory review provision to provide for a review of the legislation after it has been in operation for 5 years;*
- *A new power to make regulations to protect the privacy of private donors such as those who maintain a private ancillary fund;*
- *A substantial redrafting of provisions relating to directors' liability, clarifying that a director of an incorporated charity will only be liable under the Act where there is a deliberate act or omission of the director involving dishonesty, gross negligence or recklessness. No criminal offences will now apply to directors of an incorporated charity, as the one criminal offence relating to directors included in the exposure draft of the Bill has been removed. This will provide additional assurances and protections for volunteer directors.*

*The ACNC Bills have been through an extensive and comprehensive process of consultation and review. They should now be passed so that we can begin to implement a long overdue reform - establishing an independent regulator for the Australian not-for-profit sector.*

The ACNC was developed through a process of consultation. The repeal of the ACNC is being imposed with no meaningful consultation and is dismissive of the extensive consultations undertaken and feedback provided by the sector over many years.

## 4. Support for the ACNC

CCA has been surprised by the level of support the ACNC has attracted from the sector it has been established to regulate. While there is a small minority of vocal detractors with their own particular issues, it seems almost unprecedented that a regulator would attract such strong support from those it regulates.

In response to CCA member concerns about the future of the ACNC, CCA prepared a joint letter to the Prime Minister signed by over fifty leading charities and specialist charity law and tax experts (see attached). While this letter was publicly dismissed by some in government on the grounds that it had only fifty signatures, it is important to emphasize that the open letter was never intended as a petition (how many signed was not the focus), but as a representative letter signed by a cross section of leading charities and academics specializing in charity law and taxation as an indication of the breadth of support for the ACNC.

The suggestion that many in the charities sector oppose the ACNC lacks credibility given the extensive history of consultation with the sector and more recent surveys of sector views. In particular, the last three major surveys on this issue involving thousands of respondents across our sector show the following:

- Pro Bono survey 15 August 2013 found 81% support for the ACNC and only 6% supporting ATO regulation.

[http://www.probonoaustralia.com.au/sites/www.probonoaustralia.com.au/files/news/archive/nfp\\_election\\_survey\\_2013.pdf](http://www.probonoaustralia.com.au/sites/www.probonoaustralia.com.au/files/news/archive/nfp_election_survey_2013.pdf)

- Our Community Survey of Oct/Nov 2013 found only 15% of those polled thought abolishing the ACNC was a good idea and 74% thought it was a bad idea.

[http://www.ourcommunity.com.au/leadership/leadership\\_article.jsp?articleId=4998](http://www.ourcommunity.com.au/leadership/leadership_article.jsp?articleId=4998)

- The Grant Thornton (financial services firm) annual survey of charities again showed 83% support for the ACNC

[http://www.grantthornton.com.au/files/gt\\_nfp\\_report\\_13-14.pdf](http://www.grantthornton.com.au/files/gt_nfp_report_13-14.pdf)

As far as CCA can ascertain, there is no survey or any other evidence anywhere suggesting there is strong support for abolishing the ACNC.

Aside from charities themselves supporting the ACNC, there is some evidence in independent surveys conducted by the ACNC that the public feel more confident about charities and therefore more willing to give if they know there is a charities regulator. Where major problems have been identified with charities, the community often pressures governments to exercise more monitoring control over charities. This is part of the push that has driven the establishment of charity regulators around the world and one of the reasons the Australian community tend to support a charities regulator.

Larger charities have long ago recognized that their reputation, the level of trust the community places in their name and their work, is at the very heart of their capacity to not only fundraise, but also fulfill their purpose. Building community trust is one of the reasons cited by some CCA members for supporting the ACNC

There can be no doubt that there is very strong support for the ACNC.

## 5. The achievements of the ACNC since establishment

CCA believes the achievements of the ACNC since it was first established 16 months ago has been outstanding. This work can best be described under the following six headings:

### 5.1 Charity registration

- Over 3000 new charities have been registered with the ACNC. Feedback collected by the ACNC and other organisations indicates that these new charities found the process of becoming a registered charity through the ACNC to be a positive process.

### 5.2 The public charities register

- Over 60,000 charities are now listed on a publicly available register. For the first time, Australians can look up a charity and there have already been over 400,000 visits to this register.
- The extent of information provided by this register is growing as charities complete their Annual Information Statements (AIS). Already 83% of eligible charities have completed their AIS, 25,000 charities have lodged their governing documents with 22,000 already published on the register
- It is interesting to note that the process of establishing the charities register has highlighted that almost 10% of listed charities appear to no longer be operational, something the Australian Taxation Office (ATO) and ASIC might not have been aware of. In general, ASIC and the ATO have strong front end gate keeping that can make it difficult to gain their approval and registration, but once people are inside, the monitoring of their behaviour seems, at best, negligible
- It is also interesting to note that the register is largely operated on line (99% of AIS are completed online) thereby providing considerable savings in time and energy.

### 5.3 Compliance

- In its first 16 months of operation, the ACNC received 686 complaints which resulted in over 250 investigations. Most of these investigations have been resolved through various forms of mediation and working with the charities themselves.
- Previously if anyone complained to the Australian Taxation Office (ATO) about the operations of a charity, no-one knew what happened.
- As mentioned above, once organisations are approved by either ASIC or the ATO their conduct is largely unmonitored This is in contrast to the ACNC's approach which seems to support people in gaining registration, but more actively engage with and monitor behaviour once they are registered. Compliance activity is critical, not just because a very small minority of charities are deliberately misleading and behaving badly, but primarily to offer support that will help struggling charities become more viable.

### 5.4 Information services

- There have been over 1.3 million visits to the ACNC website, more than 45,572 telephone calls answered with an average wait time of 33 seconds, and 55,000 mail items have been received.
- There have been 216,214 visits to ACNC guidance (including factsheets, guides and FAQs)
- Most complex enquiries (59%) have been resolved within 5 days while over three quarters of general complaints (79%) have been resolved within 2 days – well above international benchmarks and previous performance figures from the ATO.



## 5.5 Red tape reduction

- The ACNC has already established a 'one stop shop' for charities to register, report, and access Commonwealth Government taxation and other concessions. The ACNC and the ATO have developed a seamless registration process across both agencies. There is a single application form that charities complete to both get their charity determination and tax concessions. This work is being extended through ongoing work with State Revenue Commissioners that will eventually enable charities to apply for State tax concessions as part of this single process.
- The ACNC already has a Memoranda of Agreement with seven government agencies/regulators. For charities that are corporations registered with ASIC there will be no duplication in reporting. ASIC will take all the information provided to the ACNC. For Indigenous corporations the ACNC takes the information provided to ORIC and there is no reporting required to the ACNC. For schools, the ACNC will accept the financial information provided to the Minister for Education as satisfying ACNC financial report requirements and discussions are continuing with the Department of Education to further streamline reporting.
- The ACNC is close to finalising the Charity Passport to facilitate a 'report once, use often' framework so that charities no longer need to report multiple times to different government agencies (this passport will be supported by Commonwealth Grant Guidelines) and other regulatory and funding agencies.
- South Australia and ACT have committed to harmonising their regulatory requirements to the ACNC information and Charity Passport. If the ACNC is to continue, some other States have expressed interest in pursuing discussions with the ACNC to align their regulation to the information collected by the ACNC.
- The ACNC has done more in a little over a year than COAG and most government agencies have done in 20 years to reduce red tape – even if only 25% of states and territories have come on board.
- By any measure these are remarkable achievements, especially when you consider that the role of the ACNC has been actively undermined by recent speculation about its future. A lot more needs to be done, but the ACNC has shown it can achieve real changes in reducing red tape.

## 5.6 Reporting on public trust, red tape and the charities sector

- The ACNC has begun a process of monitoring and reporting on levels of public trust and confidence in the charities sector. It has commissioned independent bench marking research and published the first results in this area. It is interesting to note that public trust and confidence is enhanced when the public believe there is a national Charities Commission.
- Similarly, the ACNC has commenced work on identifying and reporting on the levels of red tape being imposed on the sector, including national workshops and surveys. Not all compliance activities are red tape – some collection of information can lead to an overall reduction in duplication and compliance – and need to be welcomed as steps towards a real reduction in red tape (the ACNC Annual Information Statement is one good example of how providing one set of information can supersede duplicated reporting across different regulators).
- The information provided to the ACNC has begun to provide invaluable insights into the nature, scope and extent of operations of charities across Australia. It is hoped this additional information will better inform policy making and future planning for the sector over time.



## 6. Considering the case for dismantling the ACNC

It is difficult to see how anyone can seriously argue that the charities sector does not need a dedicated independent regulator to overcome the myriad of compliance and regulatory imposts, but clearly there is some opposition. While CCA is not interested in addressing individually all the views expressed in the Explanatory Memorandum associated with the ACNC Repeal Bill (EM), CCA feel it is important to highlight a number of areas where the EM is clearly misleading.

The EM refers specifically to support for dismantling the ACNC quoting a Centre for Independent Studies report and the views of one organisation that has been equivocal in its support for the ACNC. It is wrong that an EM chooses to ignore the overwhelming evidence of strong support for the ACNC, both currently and in previous inquiries and reviews.

Other arguments against the ACNC implied in the EM suggest that it is better to have multiple regulators than to have one. CCA cannot understand how anyone can argue that it is better to provide information multiple times in multiple formats that can be stored in multiple places largely unused and unavailable.

It is clearly misleading for the EM to suggest that having one regulator for the charities sector increases red tape, while returning to multiple regulators represents a reduction in red tape. Using similar arguments, some might suggest we should all carry multiple copies of our birth certificates, home address, marriage certificates, drivers' license and every other personal identifying document with us when we travel rather than having a single passport, because in providing the information for our passports we are creating red tape. Another untenable extension of this argument might be to suggest dismantling ASIC and allowing a whole range of independent self-appointed and largely self-directed regulators over-see corporations. Would the dismantling of ASIC also be consistent with the government push for reduced red tape even though it would create much more compliance activity?

There are also some suggestions that charities regulators are on the way out internationally or have been abolished. In fact, there are more, not less charity regulators being established. It is also clear from overseas experience that it only takes one or two major charity scandals before the community starts calling for ACNC type regulators to be established. If some of the issues resulting in current court cases about charities become part of a public discussion, there will be increased pressure to retain the ACNC. These issues may include the question of how ASIC and the ATO have allowed NFPs to transform themselves into for profits and distribute their previously not-for-profit assets to individual share holders.

CCA is particularly concerned that while the EM to the ACNC repeal Bill talks about four years of 'consultations' on the ACNC, it makes no reference to the findings of the extensive formal consultations through Parliament which clearly supported the ACNC. The EM implies that meetings with a Minister amount to serious and ongoing consultations with a sector. CCA would again emphasise that no formal consultations have occurred on the repeal of the ACNC. It is disingenuous to imply that a Government telling the charities sector that 'the ACNC will be dismantled regardless of what is said' is engaging in consultation. The word consultation implies more than meetings where you ignore what you hear.

Suggestions that ASIC or the ATO could take on the role of the ACNC fly in the face of many years of evidence about the behaviour of both these entities in dealing with charities. Again, the charities sector has asked for and supports a dedicated independent regulator because it knows what will best serve its interests and the interests of the broader community. This is not about theory or politics or ideology, it is about the day to day experience of charities in dealing with regulators across Australia.

## 7. Conclusion

CCA strongly supports the continuation of the ACNC and opposes the repeal Bill.

The three objects of the ACNC were developed through a long process of consultation and engagement with the sector and the ACNC has already made remarkable progress in a short period of time towards achieving these objects. It is difficult to find any comparable regulator that has been able to achieve so much in its establishment phase, especially when you consider the political pressure applied on the ACNC since its inception.

The staff of the ACNC deserve commendation. They have been under threat of losing their jobs and their roles, but have continued to focus on and actively pursue the purpose of their organisation in a way that sets a standard for the whole NFP sector.

At the same time CCA acknowledges that the ACNC is not perfect and has not immediately delivered all that it was tasked to do. It can be better. It needs more time, a stronger commitment from government, and a willingness to support its drive to achieve the objects it was established to pursue. What the ACNC has demonstrated is a willingness to work with many different stakeholders including charities, to strive to find common ground and deliver positive outcomes for the not-for-profit sector and the Australian community.

While governments may be dismissive of the charities sector, it is wrong to assume charities are incapable of determining what is in the best interests of their organisations and the communities they serve.

The members of CCA are not seeking to create red tape for themselves or establish a new compliance burden. Why would any organisation seek to do that? If the ACNC is dismantled, it will mean more red tape, not less, for most charities across Australia.

Support for the ACNC is grounded in many years of governments telling the charity sector how it will reduce red tape and make their lives better while delivering almost the exact opposite.

Repealing the ACNC is a retrograde step that can only serve the agenda of a vocal minority opposed to transparency. It is not good policy, as numerous well informed and supported inquiries and reviews have found. It is not good practice, as the reality of charities everyday having to jump through different shaped compliance hoops clearly demonstrates, and, it is not good in terms of government relations with a charity sector it claims to support and wants to strengthen.

If the government is serious about wanting a stronger civil society, if it wants to build flourishing it should work with the charities sector and retain the ACNC.

## CCA Members

## Attachment 1

Access Australia's National Infertility Network	Sandra Dill
Alcohol Tobacco and Other Drugs	Carrie Fowlie
ANEX	John Ryan
Australian Council for International Development	Marc Purcell
Australian Healthcare and Hospitals Association	Alison Verhoeven
Australian Indigenous Leadership Centre	Rachelle Towart
Australian Institute of Superannuation Trustees	Fiona Reynolds
Australian Major Performing Arts Group	Bethwyn Serow
Australian Women Donors Network	Julie Reilly
Church Communities Australia	Chris Voll
Community Colleges Australia	Kate Davidson
Connecting Up Australia	Anne Gawen
Consumers Health Forum of Australia	Adam Stankevicius
<b>Drug Arm</b>	<b>Dr Dennis Young (Director)</b>
e.motion21	Karina Posanzini
Family Life Services Centre,	Jo Cavanagh
Foresters Community Finance	Belinda Drew
Foundation for Alcohol Research and Education	Michael Thorn
Foundation for Young Australians	Jan Owen
Goodstart Early Learning	Julia Davison
<b>Good Beginnings Australia</b>	<b>Jayne Meyer-Tucker (Director)</b>
HammondCare	Stephen Judd
Hillsong Church	George Aghajanian
IRT Group	Nieves Murray
Lifeline Australia	<b>Jane Hayden (Director)</b>
Maroba Lodge	Viv Allanson
Melbourne Citymission	Rev. Ric Holland
Missions Interlink	Pam Thyer
<b>Mission Australia</b>	<b>Toby Hall (Director)</b>
<b>Musica Viva Australia</b>	<b>Mary Jo Capps (Director)</b>
Opportunity International Australia	Rob Dunn
Philanthropy Australia	Louise Walsh
Pro Bono Australia (Associate member)	Karen Mahlab
Relationship Australia	Alison Brooke

**RSPCA Australia**

SANE

SARRAH

Save the Children

St John Ambulance Australia

Social Ventures Australia

The ANZCA Foundation

The Australian Charities Fund

**The Benevolent Society**

**The Big Issue**

The Centre for Social Impact

**The Smith Family**

The Ted Noffs Foundation

Variety Australia

Volunteering Australia

**Wesley Mission**

Wesley Mission Victoria

Work Ventures

Workplace Giving Australia

**World Vision Australia**

YMCA Australia

Youth Off The Streets

YWCA Australia

**Heather Neil (Director)**

Jack Heathe

Rod Wellington

Paul Ronalds

Peter LeCornu

Michael Traill

Ian Higgins

Edward Kerr

**Anne Hollonds (Director)**

**Steven Persson (Director)**

Andrew Young

**Lisa O'Brien (Director)**

Wesley Noffs

Neil Wykes

Brett Williamson

**Keith Garner (Director)**

Rob Evers

Arsenio Alegre

Peter Walkemeyer

**Tim Costello (Chair)**

Ron Mell

Fr Chris Riley

Dr Caroline Lambert

## Open letter to the Prime Minister March 2014

## Attachment 2

The Hon. Tony Abbott, MP  
Prime Minister  
Parliament House  
Canberra ACT 2600

Wednesday 19 March 2014

### RE: Civil Society Support for Independent Regulator

#### Dear Prime Minister

We want to make it very clear to the Commonwealth Government and wider community that like most charities across Australia, we value the Australian Charities and Not-for-Profits Commission, and we want to see it continue its impressive work.

Charities and the broader not-for-profit sector are at the heart of Australian communities. They are there in the good times and bad. They provide support to the most vulnerable; lift our sights and our hearts through culture, sport, education, welfare, support for the aged or the unwell; promote our spirituality; protect our animals and our environment; play our part internationally, and ensure those less able can still participate.

The not-for-profit sector also makes a major economic contribution, employing approximately one million Australians and turning over close to \$100 billion each year. In tight economic times, this sector needs to be both productive and effective, regardless of whether it is supported by tax payer funds, self-generated income, public donations or the efforts of our many volunteers. Governments all know we need a strong not-for-profit sector in this country if we are to be both economically strong, and enjoy healthy fulfilling lives.

The establishment of an independent national charities regulator was first seriously proposed through a Howard Government review of the definition of charity in 2001, and has since been supported by many, including the Productivity Commission, the Henry Review and Senate Inquiries involving hundreds of submissions and numerous public hearings.

The launch of the Australian Charities and Not-for-profits Commission in 2012 was a major step forward in creating a regulatory environment that works for the not-for-profit sector rather than against it. In little over one year of operation, the ACNC has built a strong positive reputation by establishing the first public national register of charities, registering more than 2,600 new charities, responding to over 70,000 requests for information from charities and the broader community, investigating and resolving over 200 complaints against charities, and monitoring the extent of red tape and level of public trust and confidence in our charities. The ACNC has done what few new regulators achieve – gained widespread support across the sector it is regulating.

Governments in Ireland and Jamaica are the latest to set up new charity regulators as part of a world-wide push to improve public transparency of the charities sector, increase giving, cut compliance costs and reduce red tape.

The Australian Government intends to shut down the ACNC as soon as it can, and in the meantime, cut its funding and capacity. It is planning to return the key role of determining charitable status to the Australian Taxation Office, re-creating a conflict of interest. This approach is, at best, an unfortunate policy for charities across Australia and our community. Red tape will continue to grow, the size of the bureaucracy will grow, and services to the sector and the public will be reduced.

The vital work of the ACNC must be maintained, for the benefit of charities, not-for-profits and the many communities they serve.

### Signatories

**Professor Ann O’Connell, NFP Project  
Melbourne Law School, University of  
Melbourne**

**Belinda Drew, Chief Executive Officer  
Foresters Community Finance**

**Brett Williamson, Chief Executive Officer  
Volunteering Australia**

**Dr Caroline Lambert, Executive Director  
YWCA Australia**

**Dr Cassandra Goldie, Chief Executive Officer  
Australian Council of Social Services**

**Carrie Fowlie, Executive Officer  
Alcohol Tobacco and Other Drug Association  
ACT**

**Carrillo Gantner AO, Chairman  
Sidney Myer Fund**

**Cate Sayers, Chief Executive Officer  
e.motion.21**

**Fr Chris Riley, Chief Executive Officer  
Youth Off The Streets**

**Chris Voll, Chair  
Church Communities Australia**

**Danny Vadasz, Acting Chief Executive Officer  
Australian Conservation Foundation**

**Dawn O’Neil AM, Collective Impact  
Dawn O’Neil & Associates**

**David Crosbie, Chief Executive Officer  
Community Council for Australia**

**Dr Dennis Young, Executive Director  
DRUG ARM Australasia**

**Professor David Gilchrist, Director of Curtin  
Not-for-profit Initiative Curtin University**

**Professor Dale Pinto, Professor of Taxation Law  
and Head of Department (Taxation)  
Curtin Law School, Curtin University**

**Evelyn O’Loughlin, Chief Executive Officer  
Volunteering SA & NT**

**Fiona Martin, Associate Professor  
Australian School of Business, UNSW**

**Fiona McLeay, Chief Executive Officer  
Justice Connect**

**Graeme Danks, Trustee  
Danks Trust**

**Heather Neil, Chief Executive Officer  
RSPCA Australia**

**Jack Heath, Chief Executive Officer  
SANE Australia**

**James Pitts, Chief Executive Officer  
Odyssey House McGrath Foundation**

**Jane Hayden, Chief Executive Officer  
Lifeline National Office**

**Jill Reichstein, Chair  
Changemakers Australia**

**John Nicolades, Chief Executive Officer  
Bridge Housing Ltd.**

**John Ryan, Chief Executive Officer  
ANEX**

**Karen Barnett, Chief Executive Officer  
Port Phillip Housing Association**

**Kate Davidson, Chief Executive Officer  
Community Colleges Australia**

**Lisa Grinham, Chief Executive Officer  
Charities Aid Foundation Australia**

**Marc Purcell, Executive Director  
Australian Council for International  
Development**

**Martyn Myer AO, President**  
**The Myer Foundation**

**Peter Winneke, Head of Philanthropic Services**  
**The Myer Family Company**

**Mary Jo Capps, Chief Executive Officer**  
**Musica Viva Australia**

**Rob Evers, Chief Executive Officer**  
**Wesley Mission Victoria**

**Matthew Harding, Assoc Profesor**  
**NFP Project Melbourne Law School**

**Robert Dunn, Chief Executive Officer**  
**Opportunity International Australia**

**Mark Watt, Chief Executive Officer**  
**Whitelion**

**Rod Wellington, Chief Executive Officer**  
**SARRAH**

**Matthew Noffs, Chief Executive Officer**  
**Ted Noffs Foundation**

**Ron Mell, Chief Executive Officer**  
**YMCA Australia**

**Michael Thorn, Chief Executive**  
**Foundation for Alcohol Research and Education**

**Sam Biondo, Executive Officer**  
**Victorian Alcohol & Drug Association**

**Michael Traill, Chief Executive**  
**Social Ventures Australia**

**Sandie de Wolf, Chief Executive Officer**  
**Berry Street**

**Nieves Murray, Chief Executive Officer**  
**IRT Group**

**Sandra Dill, Chief Executive Officer**  
**Access Australia**

**Pam Thyer, National Director**  
**Missions Interlink**

**Sue Donnelly, Executive Director**  
**Queensland Theatre Company**

**Paul Arnott, Executive Director**  
**Churches of Christ Vic and Tas**

**Dr Stephen Judd, Chief Executive Officer**  
**HammondCare**

**Paul Ronalds, Chief Executive**  
**Save the Children**

**Tim Costello AO, Chair**  
**Community Council for Australia**

**Peter LeCornu, Chief Executive Officer**  
**St John Ambulance Australia**

**Tony Lawson, Chair**  
**Consumers Health Forum of Australia**

**Peter Ridley, Chief Financial Officer**  
**Hillsong Church**

**Viv Allanson, Chief Executive Officer**  
**Maroba Lodge**