

Dissenting Report by Australian Greens

1.1 The Australian Greens do not support the repeal of the Australian Charities and Not-for-profits Commission (ACNC).

1.2 The not-for-profit reform process undertaken by the 43rd Parliament was the end result of a lot of hard work from people across the sector who were committed to seeing the principles of a vibrant, diverse and independent civil society underpinned by legislation.

1.3 The Australian Greens acknowledge that any reform process is a work in progress and there have been issues with the commencement of the ACNC, but the Commission and its associated legislation is supported by the large majority of the sector. About 80 per cent of the submissions favour the retention of the ACNC; about 10 per cent express support for the principles underpinning its establishment but are agnostic on the question of whether the ACNC or some new entity carries out the regulatory function; and only 10 per cent advocate its abolition.

1.4 Establishing the ACNC was a significant step towards the modernisation needed to ensure organisations are better equipped to operate in the 21st century. As a new body the ACNC is settling into its role and has not always struck the right balance between its regulatory functions and its red-tape reduction functions. This is not a good enough reason to repeal the ACNC altogether – rather, it highlights that it is important that government works with the sector to improve the ACNC, rather than taking the backwards step of destroying it.

1.5 The Greens supported the creation of the ACNC because it is important to our community to have a vibrant charity sector that delivers a range of important services to hundreds of thousands of people and the environment, and lead the debate on important issues such as inequality and poverty. Community and charity organisations work hard to serve, defend and promote the broader needs of our community, and need to remain strong and independent to do their best work.

1.6 The not-for-profit sector is on the front line when it comes to dealing with the impacts of social policies, such as the cuts to income support in the recent Budget and above all else, the Greens are committed to the sector and ensuring its long term independence. Promoting a vibrant, diverse and independent sector is one of the three objectives of the ACNC, and the Greens are deeply concerned that this principle will not be carried forward into any alternative bodies proposed by the Government.

1.7 Unfortunately, it is still impossible to assess exactly how the repeal will affect the sector because the Government has released very little detail about the proposed replacement.

1.8 This is concerning in itself, because repealing the dedicated regulator without having undertaken appropriate consultation or developed a clear alternative demonstrates an inherent lack of respect for the broad role that charities play in our community.

1.9 This inquiry has confirmed that Social Services Minister Kevin Andrews has undertaken "informal consultations" about the process of repealing the ACNC and the possible form its replacement might take. However, an informal consultation process is highly subjective and often fails to properly account for and resolve differences of opinion among stakeholders.

1.10 Before any decision on the ACNC's future was made, the Government should have undertaken a full and proper open process of consultation that reaches out to the sector and encourages their extensive involvement. This should have included the opportunity for providers to prepare and lodge submissions and for hearings and consultations to be undertaken around the country.

1.11 This has not occurred, and because the Government has not yet developed a replacement for the ACNC, any move to scrap the regulator will only lead to confusion and instability across the not-for-profit and charity sector.

1.12 This disregard for the input of the sector and lack of process or planning is a key reason why the Australian Greens are opposed to this legislation proceeding.

1.13 The lack of a replacement body also means that abolishing the ACNC at this point in time would see the work of assessing charitable status and not-for-profit regulation handed back to the Australian Taxation Office (ATO).

1.14 The ACNC was developed in response to both the complexity and the lack of transparency that was associated with assessments undertaken by the ATO. Returning to this arrangement cannot deliver simplified administration and a reduction in red tape.

1.15 Mr Robert Fitzgerald's evidence to the inquiry demonstrated that returning these powers to the ATO would actually further entrench a failed regulatory system, rather than improve on the work that has been undertaken so far.

1.16 Furthermore, the ATO's role as both the decision maker on charitable status and the government's revenue collector is likely to leave the sector as the losers.

1.17 There is clearly overwhelming support in the sector for an independent regulator and rejection of the ATO becoming the regulator again and for these reasons the Australian Greens do not support this backwards step of returning any of the ACNC's powers to the ATO.

1.18 The ACNC also has a specific role in reducing red tape and has to report to Parliament on its progress towards this outcome. The creation of the ACNC also enabled a national approach to reducing the multiple compliance reporting and

regulatory requirements of the different state and territories currently impose. Although the ACNC began its first round of data collection in a manner that increased rather than reduced the red-tape burden in the short term for some organisations, there has been open dialogue around the purpose of that data collection and improvements made. There is no demonstration that the ACNC is not going to deliver on this responsibility. Nor is it clear that the process the Government talks about will ensure good governance, accountability, transparency and streamlining of reporting.

1.19 Removing the body that is set up to streamline compliance obligations will, in the longer term, just make things harder for many organisations.

1.20 For all of these reasons, the Australian Greens recommend that this legislation not be passed.

Senator Rachel Siewert
Senator for Western Australia

