

# Executive Council of Australian Jewry Inc.

הוועד הפועל של  
יהודי אוסטרליה

## The Representative Organisation of Australian Jewry

Level 2, 80 William Street  
Sydney NSW 2000

Address all correspondence to:  
PO Box 1114, Edgecliff NSW 2027

Tel (+61 2) 8353 8500  
Fax (+61 2) 9361 5888  
Web: [www.ecaj.org.au](http://www.ecaj.org.au)  
E-mail [info@ecaj.org.au](mailto:info@ecaj.org.au)

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30 August 2012

Committee Secretary

Senate Standing Committee on Community Affairs/ Parliamentary Joint  
Committee on Corporations and Financial Services

PO Box 6100

Parliament House

CANBERRA ACT 2600

By email: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au);  
[corporations.joint@aph.gov.au](mailto:corporations.joint@aph.gov.au)

Dear Sir/Madam

### **Re: Australian Charities and Not-for-profits Commission Bill 2012** **Australian Charities and Not-for-profits Commission** **(Consequential and Transitional) Bill 2012**

The purpose of this letter is to provide our comments on two specific areas in the *Australian Charities and Not-for-profits Commission Bill 2012 (ACNC Bill)* and the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Bill 2012 (Consequential and Transitional Bill)*.

We appreciate the hard work undertaken by the Government in preparing the ACNC Bill and the Consequential and Transitional Bill, and we value the opportunity to participate in the consultation process.

The Executive Council of Australian Jewry (ECAJ), is **the elected peak organisation of the Jewish community in Australia**, representing at the national level the Jewish communities of each of the States and Territories, and their respective roof bodies, as well as other national Jewish organisations. The Jewish community roof body of each State and Territory includes among its own constituent or affiliate organisations local community organisations which are charities or which operate charitable funds.

Further, the ECAJ itself appoints the members of the peak governing boards of the Council for Jewish Education in Schools and the Council for Jewish Community Security, both of which are recipients for deductible gifts named expressly in the *Income Tax Assessment Act 1997* in sections 30.25 and 30.105 respectively.

### **Comments on the ACNC Bill and the Consequential and Transitional Bill**

Our comments on the ACNC Bill and the Consequential and Transitional Bill are as follow.

#### **Comment 1: Confidentiality**

We acknowledge that the ACNC Bill provides for a regulation making power that allows for prescribed information to be withheld or removed from the ACN Register, subject to a public interest test. Further, the Governor-General may make regulations to address unique circumstances where it may not be appropriate for information or classes of information to be disclosed. Refer to s40-10(1), (2) and (3) of the ACNC Bill.

We also acknowledge that it is intended that the Governor-General will be making regulations to protect the privacy of private donors, such as those who maintain a private ancillary fund.

We submit that the Governor-General should make regulations to protect the privacy of private donors, such that **no** private information on the donors to private ancillary funds will be available on the ACNC Register. This is important because if such private information is published, there could be an increase in unsolicited approaches from groups seeking money. There could also be a reduction of money in private ancillary funds, as individuals who highly value their privacy would reduce their engagement with philanthropy.

#### **Comment 2: Directors Duties**

We acknowledge that the ACNC Bill provides that where there is a non-criminal contravention of the ACNC Bill, a director of an incorporated charity is only liable for any amount payable by the body corporate, where this arises from a deliberate act or omission of the director involving dishonesty, gross negligence, or recklessness. A director of an incorporated charity is not subject to an offence provision contained in the ACNC Bill that applies to the incorporated charity. Refer to s180-30 of the ACNC Bill.

We submit that a director of an incorporated charity who serves on a voluntary basis should only be liable for their personal **criminal** actions. This is important because a high proportion of directors of charities serve on a voluntary basis. These directors should be supported in their efforts.

We would be pleased to elaborate on the above or provide any further information you may like and would also be pleased to meet with you to discuss.

Yours sincerely

*P.J. Wertheim*

**Peter Wertheim AM**  
**Executive Director**