



**Submission on House of Representatives Inquiry into
Australian Charities and Not -for-profits Commission Bill
and associated Transitional and Consequential Amendments
Bill**

(20 July 2012)

Standing Committee on Economics, ?

House of Representatives

Parliament House

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To: Committee Secretary, Standing Committee on Economics
House of Representatives, Parliament House, Canberra

Submission on the Australian Charities and Not-for-profits Commission (ACNC) Bill and Associated Transitional and Consequential Amendments Bill.

The Australian Conservation Foundation is a national, community-based environmental organisation that has been a strong voice for the environment for over 40 years. ACF's 2010/2011 revenue of just under \$12.5 million means that ACF would be considered a "large" not-for-profit (NFP) for reporting purposes under the ACNC Bills.

ACF, an incorporated association, was established in 1966 under what is now the *Associations Incorporation Act 1991 (A.C.T)*. ACF holds an ABN (for GST purposes) under the *Corporations Act 2001 (Cth)* and it has charitable and DGR status. ACF reports to several agencies annually, including the A.C.T Office of Regulatory Services, to State and Territory agencies where required in those States and Territories where it conducts fundraising, the Australian Taxation Office and ASIC.

Through its own activities and involvement in representative bodies including the National Roundtable of Nonprofit Organisations (**NRNO**) ACF has a longstanding interest in the policy setting affecting the Not-for-Profit (**NFP**) Sector and ACF has been a regular joint and sole contributor to the debate on these issues.

Terms of reference ACF submission notes that the Standing Committee has not set terms of reference for this enquiry.

Purpose: this submission poses specific questions and identifies potential for improvements in relation to the exposure draft ACNC Bills as they affect ACF in particular, as well as to endorse the general submission on the Bills made by the NRNO¹ in relation to the sector in general.

Discussion Points:

- 1. Section 205-15 – Constitutional Power and federally regulated entities** ACF is an incorporated association under the laws of the Australian Capital Territory. The draft ACNC Bill purports to apply to ACF as a "federally regulated entity". ACF seeks clarification on the constitutional powers of the Commonwealth and the question of

¹ NRNO 19 July 2012: [Submission to the Inquiry into the Australian Charities and Not-for-profits Commission Exposure Draft Bills.](#)

whether or not an NFP is a 'trading corporation'² to enable ACF (and no doubt other incorporated associations) understand the scope and extent of the Bill's impact on ACF's future reporting and compliance obligations.

2. **Division 25 – Environmental Register** - whilst this does not directly impact ACF, this organisation agrees with the submission by NRNO³ on clarifying the position for future environment funds seeking registration on the environmental register administered by the Department of Sustainability Environment Water Population and Communities.
3. **Section 45-1 Governance Standards** – ACF notes that these are to be established by Regulation and there is some acknowledgment that these will be size appropriate when drafted⁴. In the absence of those draft regulations ACF is concerned that it cannot meaningfully evaluate the impact or extent of the change under the ACNC Bills on ACF's current governance processes and systems, bearing in mind that ACF is incorporated as an association.
4. **Part 3 Division 60 Reporting** ACF is concerned that rather than remove duplication, the ACNC Bills will duplicate reporting obligations. As a registered entity ACF would be required to lodge an annual information statement and annual financial reports. Given that it is an incorporated association ACF would also be lodging its annual statement and financial report with the Office of Regulatory Services in Canberra. ACF seeks clarification as to whether or not transitional provisions will be made available for the many incorporated associations who will be similarly affected. These arrangements would aim to enable ACNC to accept reports lodged by ACF with the Office of Regulatory Services (as lodgement with ACNC).⁵

In due course it would also be desirable for forms (such as notification of office bearer's change of details) where lodged under the Office of Regulatory Services in the Territory, could also be treated as reports lodged with ACNC. Lodgement fees (if applicable) could be recognised so that the filing costs are revenue neutral to the lodging entity.

Thank you for the opportunity to make a submission. Please do not hesitate to contact Ms Sari Baird, General Counsel, if you have any questions or require further information.

[END]

² This question on the constitutional powers of the Commonwealth was raised by both the NRNO July submission and earlier, in a submission dated 21 January 2012, by the University of Melbourne's Law School Not-for-profit Project.

³ See paragraph 4.5 of the NRNO submission.

⁴ See Explanatory Memorandum Item 5.4 page 59.

⁵ It is noted that whilst the Explanatory Memorandum, Chapter 14 Transitional Provisions deals with annual information statements and annual financial reporting (including substituted accounting periods) under the heading 'Transitional Provisions', the chapter does not address the lodgement by some charities, such as ACF, of similar information with State and Territory based agencies. This point was also made at page 52 in the 21 January 2012 University of Melbourne, Law School, Not-for-profit Project Submission.