

23 February 2018

Mr Murray Crowe  
Individuals and Indirect Tax Division  
The Treasury  
Langton Cres  
Parkes ACT 2600

*Email: ACNCReview@treasury.gov.au*

Dear Mr Crowe

**RSPCA Australia submission to the Review of the Australian Charities and Not-for-profits Commission legislation**

Please find attached RSPCA Australia's submission to the Review of the ACNC legislation.

The ACNC is an effective regulator of the charity sector in Australia. RSPCA Australia supports some changes to the current arrangements in order to deliver continuous improvement in the operations of the ACNC, and we recommend associated additional resources.

Please do not hesitate to contact me if you would like additional information about the RSPCA's position.

Yours sincerely



Heather Neil  
Chief Executive Officer

Attach.

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## Review of Australian Charities and Not-for-profits Commission (ACNC) legislation

RSPCA Australia submission, 28 February 2018

The RSPCA is one of Australia's oldest and most trusted charities. Its purpose to prevent cruelty to animals by activity promoting their care and protection is as relevant today as it was when the organisation was established almost 150 years ago.

The RSPCA in Australia operates as a federation, with each part of the RSPCA operating under the same branding and same policies. RSPCA Australia is the federal body. On behalf of the RSPCA federation, RSPCA Australia has long supported strong and streamlined regulation for the charities sector. RSPCA Australia encouraged the establishment of the ACNC and is of the view that the ACNC has been an effective regulator, has provided transparency about the sector and individual charities and has been a strong advocate for streamlined regulation and reporting across the Commonwealth and State Governments. We are pleased to provide input to the review of the ACNC, and thank the Review Panel for the opportunity to make this submission.

This submission addresses a number of the focus questions asked by the review panel.

### **Are the objects of the ACNC Act still contemporary?**

The majority support of the ACNC by charities is testament to the approach the ACNC staff have had in establishing the regulator, engaging extensively with individual charities, staff and volunteers (including directors) and providing clear guidance on actions required by charities.

The current objects of the ACNC Act were developed with input from the charity sector and have served the regulator well in directing its activities. The RSPCA sees no reason that the objects need to be changed.

We do note that the activities of the ACNC in relation to objects 2 and 3 are constrained by the ACNC budget, and encourage the government to provide additional resources in the immediate term to enable the ACNC to make more progress on reducing regulatory and reporting duplication.

### *Recommendations:*

- 1. That the objects of the ACNC Act remain as written in the Act*
- 2. Additional resources be provided for the ACNC to undertake more activities in relation to objects 2 and 3, and particularly the reduction of regulatory and reporting duplication.*

We note that in the ACNC submission to this review that they recommend the addition of two more objects. The RSPCA does not support these additional objects. With the information provided via the ACNC, plus information provided by charities themselves, donors are very capable of making assessments about the use of resources, its efficiency, effectiveness and outcomes achieved. There is no need for an additional object about accountability - the existing objects and actions of the ACNC provide accountability.

**Should the regulatory framework be extended beyond just registered charities to cover other classes of not-for profits?**

As the ACNC is still in the early years of its operations, the RSPCA recommends that it stays focused just on charities for the next few years, bedding down current charity related processes and activities.

*Recommendations:*

*3. The ACNC remain focused on charities and not expand to not-for-profits at this time.*

### **Reducing the regulatory and reporting burden and duplication**

The RSPCA supports the regulation of charities. This regulation however should be streamlined so that there is just one set of regulations, reporting and fundraising authority that will meet the requirements for all jurisdictions. Negotiating new systems that will remove the current duplicative and non-aligned requirements of jurisdictions must be a priority for the ACNC. Such streamlining will reduce charity administrative and compliance expenses, with these funds then being available to be used directly on the charity purpose.

The RSPCA supports work to improve the quality and consistency of data, including financial reports, and encourages resource allocation by the ACNC in this area.

*Recommendation:*

*4. The ACNC receive and allocate additional resources to facilitating and negotiating a 'regulate, register and report once' approach with all state and territory governments.*

*5. The ACNC continue work to improve the quality and consistency of data*

### **Trust in charities and enforcement role of ACNC**

Community trust in charities as a group is a foundation for the operations of any individual charity. If community trust erodes, it negatively impacts community willingness to donate, volunteer and otherwise support the activities of an individual charity.

The ACNC charity register provides a useful tool for members of the public to check on the charitable status of an organisation and its financial position - both of which contribute to overall feelings of satisfaction and trust in the sector. Ongoing investment of resources by the ACNC in the register is essential.

The ACNC also provides a vehicle for any complaints about charities to be made and investigated. Due process must be followed in any investigation with the balance between transparency (that an issue is being investigated) and potentially damaging the reputation of a charity being critical. We encourage the ACNC to explore new ways to demonstrate that they are investigating complaints and enforcing and providing information on enforcement of the relevant laws.

*Recommendation:*

*6. The ACNC should continue to invest in the charity register*

*7. The ACNC should consider whether there are new ways to communicate progress with investigations*

## Advice to the ACNC

The ACNC is an international leader in charity regulation and is widely respected and supported by the charity sector in Australia. Key to the success of the ACNC to date is its regular engagement with the sector and individual charities – providing the ability to explain objectives and activities and seek input to ensure effective design, amongst other things. Much of the success of the ACNC is a direct result of the quality of the staff, they are knowledgeable, approachable and innovative. The ACNC must commit to merit based appointment and sufficient resources must be allocated to retain and attract appropriate staff. The ACNC Advisory Board should also be making a strong contribution through their advice to the Minister and Commissioner. Appointments should be through a transparent and open process where applicants demonstrate their credentials and suitability against publicly available selection criteria.

### *Recommendations:*

- 8. ACNC ensure merit based appointment of staff and sufficient resources to retain and attract appropriate staff*
- 9. Appointment to the ACNC Advisory Board should be through a transparent and open application process.*