



AUSTRALIAN  
COUNCIL  
FOR  
INTERNATIONAL  
DEVELOPMENT

## **Register of Environmental Organisations**

**ACFID submission to the House of Representatives Standing Committee on  
the Environment**

May 2015

## 1. About ACFID

The Australian Council for International Development (ACFID) unites Australia's non-government aid and international development organisations to strengthen their collective impact against poverty. Our vision is of a world where gross inequality within societies and between nations is reversed and extreme poverty is eradicated. ACFID's purpose is to provide leadership to the not-for-profit aid and development sector in Australia in achieving this vision and to fairly represent and promote the collective views and interests of our membership.

Founded in 1965, ACFID currently has 133 members and 13 affiliates operating in more than 100 developing countries. The total revenue raised by ACFID's membership from all sources amounts to \$1.3 billion (2012/13), \$719 million of which is raised from over 1.9 million Australians (2012/13). 80% of funding is from non-government sources. ACFID's members range between large Australian multi-sectoral organisations that are linked to international federations of NGOs, to agencies with specialised thematic expertise, and smaller community based groups, with a mix of secular and faith based organisations.

The ACFID Code of Conduct is a voluntary, self-regulatory sector code of good practice that aims to improve international development outcomes and increase stakeholder trust by enhancing the transparency and accountability of signatory organisations. Covering over 50 principles and 150 obligations, the Code sets good standards for program effectiveness, fundraising, governance and financial reporting. Compliance includes annual reporting and checks. The Code has an independent complaints handling process. Over 130 organisations belong to the ACFID Code and can be viewed at <http://www.acfid.asn.au>

It is important to note that this submission does not over-ride any policy positions that may be outlined in any individual submissions from ACFID members.

## 2. Executive Summary

ACFID welcomes the opportunity to provide input into this Inquiry on the administration and transparency of the Register of Environmental Organisations and its effectiveness in supporting communities to take practical action to improve the environment.

ACFID's submission is primarily focused on the following two Terms of Reference:

- The definition of 'environmental organisation' under the *Income Tax Assessment Act 1997*, including under Subdivision 30-E; and
- Activities undertaken by organisations currently listed on the Register and the extent to which these activities involve on-ground environmental work.

ACFID's submission is focused on three key points:

1. **The economic and social contribution of the not for profit (NFP) sector to Australia** including its annual contribution to GDP of over \$55 billion alongside its contribution to a fairer, more inclusive and more secure Australia.
2. **The important and legitimate roles of NFPs, including environmental NFPs, in a liberal democracy such as Australia.** ACFID believes that the precautionary principle in environmental matters should be affirmed. In addition, the role of tax deductible environmental NFPs in exercising scrutiny and raising public awareness in relation to environmental public goods should be protected, as part of a sound public policy approach to the management of environmental impacts.
3. **The right of the citizen donor to claim tax deductibility without undue interference by Government on the types of activity.** ACFID emphasises that while environmental NFPs may say and do things in fulfilling their charitable purpose that the Government disagrees with, the Government should – as a first principle – protect the right of free speech and the public benefits brought by NFPs.

ACFID recommends that the Inquiry:

1. Endorse the current definition of charity in the *Australian Charities Act 2013*.
2. Endorse the principle that that Government should protect the right of free speech and the public benefit that NFPs, supported by tax deductible donations, bring to democracy, the economy and society in Australia.
3. Recommend that the Government:
  - (i) Does not seek to reduce the remit of environmental NFPs in the types of activities they engage in under law;
  - (ii) Makes no change to the current definition of 'environmental organisation' under the *Income Tax Assessment Act 1997*, including under subdivision

30-E; specifically its definition of “protecting the environment” as including education and advocacy as well as practical field work; and  
(iii) Make no change to the purpose under the Register of Environmental Organisations.

4. Endorse the freedom of citizens to donate to tax deductible NFPs of their choice under current Australian law.
5. Affirm the principle that the Government should not – as a rule - interfere in the regulating the types of NFP activities that citizens can donate to under current Australian law.

### 3. Economic and social contribution of the NFP sector

The Australian not for profit (NFP) sector is an essential part of the Australian economy and a key contributor to our standard of living. As reported by the Community Council of Australia, the sector turns over more than \$107 billion annually, contributes around 4% to GDP and employs over one million staff. The sector is also experiencing some of the strongest industry growth in Australia, growing at approximately 7% per year over the last decade.<sup>1</sup>

Harder to quantify, but equally important, is the social and community contribution that the NFP sector makes to Australian society. In its review of the *Contribution of the Not for Profit Sector*, the Productivity Commission noted that “economic estimates fail to capture the broader community benefits, some of which may be greater for the NFP sector than for government or business activity.”<sup>2</sup> Through work in areas such as social assistance, health, education, the environment, arts and culture, sport and emergency relief, the NFP sector contributes to a fairer, more inclusive and more secure Australia. To this end, the activities of the sector go beyond the recipients of services and the direct impact of their outcomes to generate broader societal benefits (spill overs).<sup>3</sup>

It is worthwhile noting that the Government agrees with these benefits and has stated that “the community sector is the engine room from which strong and resilient communities are built, and, when empowered, develop their own solutions and respond to individuals’ and community needs.”<sup>4</sup>

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<sup>1</sup> Community Council of Australia, 2014, *Owning Our Future, Series 1: Better Using Our Assets - Report from the national round of CEO forums, October - November 2014*, Available online: <http://www.communitycouncil.com.au/sites/default/files/CCA-Owning-Our-Future-Series-1-Better-Using-Our-Assets-WEB.pdf>

<sup>2</sup> Productivity Commission, 2010, *Contribution of the Not-for-Profit Sector*, Available online: <http://www.pc.gov.au/inquiries/completed/not-for-profit/report>

<sup>3</sup> Ibid

<sup>4</sup> MEDIA RELEASE THE HON. KEVIN ANDREWS MP, MINISTER FOR SOCIAL SERVICES, ‘Delivering on our commitments to strengthen civil society’ 13 May 2014

## 4. The important and legitimate roles of NFPs

NFPs play a number of important and legitimate roles in Australian society. The Productivity Commission has defined these as service delivery to members or clients; connecting community and expanding people's social networks; enhancing community endowment by investing in skills, knowledge and assets for current and future generations; and exerting influence and initiating change on economic, social, cultural and environmental issues.<sup>5</sup> Importantly, these roles interact and build on one another to deliver outcomes and impacts. For example, through the delivery of essential services, the NFP sector gains valuable knowledge and expertise to feedback to government on policy and programming decisions and innovative ways to resolve complex issues.

Just as important is the public awareness raising, advocacy and public engagement role played by NFPs, which makes an important contribution to Australia's strong democratic system and to the protection and promotion of public goods. NFPs serve a vital purpose in bringing the public interest to the forefront; encouraging the exchange of views and opinions; representing citizens and particular sectors of society; and acting as independent voices to monitor, test and hold governments and other actors to account.

Advocacy by the NFP sector is clearly legitimate under Australian charity and taxation law.<sup>6</sup> Moreover, in 2010, the High Court ruled that groups with tax-deductible status have the right to engage in political debate and advocacy. The judgement described the freedom to speak out on political issues as "indispensable" for "representative and responsible government".<sup>7</sup>

Given this, ACFID recommends that the inquiry:

- Endorse the current definition of charity in the *Australian Charities Act 2013*.
- Endorse the principle that that Government should protect the right of free speech and the public benefit that NFPs, supported with tax deductible donations, bring to democracy, the economy and society in Australia.

### Environmental NFPs

The work of environmental NFPs can involve holding the government and private sector actors to account to the 'precautionary principle'. The precautionary principle states that if an action or policy has a suspected risk of causing harm to the public or to the environment, and there is no scientific consensus agreeing that the action or policy is *not* harmful, the burden of proof to show that the action is not harmful falls on those taking

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<sup>5</sup> Productivity Commission, 2010, *Contribution of the Not-for-Profit Sector*

<sup>6</sup> Charities Act 2013

<sup>7</sup> *Aid/Watch Incorporated v Commissioner of Taxation* [2010] HCA 42 (1 December 2010) Judgement available online: <http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/HCA/2010/42.html>

the action. The principle implies that there is a social responsibility to protect the public and the environment from exposure to harm.<sup>8</sup>

Environmental NFPs perform an important democratic function in holding government and private sector actors to the precautionary principle, by ensuring that public awareness, debate and community concern can be focused and brought to government and private sector actors, ensuring the full implications of their policies and actions can be scrutinised.

To this end, public awareness raising, community action and advocacy have played an important role in the protection of some of Australia's greatest environmental assets, including tourist drawcards and revenue earners such as the Franklin River, Kakadu National Park and the Great Barrier Reef. They have also played an important role in driving initiatives to manage our natural resources such as the establishment of Landcare, and in positive action on public health issues.

Moreover, the public awareness raising and advocacy efforts of environmental NFPs are oftentimes more effective and efficient by working to put in place standards and regulations which prevent environmental problems occurring (e.g. establish regulatory requirements for oil tankers) rather than seeking to remediate the problem (e.g. clean up after an oil spill).

Given this, ACFID believes it is appropriate that the current *Income Tax Assessment Act 1997 (Cwth)* defines "protecting the environment" as including education and advocacy as well as practical field work.

ACFID therefore calls on the inquiry to

- Recommend that the Government:
  - (i) Does not seek to reduce the remit of environmental NFPs in the types of activities they engage in under law;
  - (ii) Makes no change to the current definition of 'environmental organisation' under the *Income Tax Assessment Act 1997*, including under subdivision 30-E; specifically its definition of "protecting the environment" as including education and advocacy as well as practical field work; and
  - (iii) Make no change to the purpose under the Register of Environmental Organisations.

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<sup>8</sup> Veinla, H, 2003, *Free Trade and the Precautionary Principle* Available online: [http://www.juridicainternational.eu/public/pdf/ji\\_2003\\_1\\_186.pdf](http://www.juridicainternational.eu/public/pdf/ji_2003_1_186.pdf)

## 5. The right of the citizen donor to claim tax deductibility without undue interference by Government on the types of activity

According to the peak body for philanthropic giving in Australia, Philanthropy Australia<sup>9</sup>:

- In 2012-13, donations, bequests and legacies from households in Australia amounted to approximately \$4 billion.
- In 2012-13, donations from businesses in Australia amounted to approximately over \$850 million.
- On average, those individual taxpayers who made tax-deductible donations to DGRs donated approximately 0.35% of their taxable income in 2010-11.
- 4.79 million Australian taxpayers (or 37.93% of the Australian taxpaying population) made and claimed tax-deductible donations in 2010-11.
- There are around 5,000 foundations in Australia, giving around \$1 billion dollars per annum. This includes almost 3,000 Private Ancillary Funds and Public Ancillary Funds, and nearly 2,000 charitable trusts and foundations administered by trustee companies.

In order for NFPs to benefit from this public and corporate generosity, NFPs need an enabling environment to operate in, including transparent laws and regulations; formal opportunities for meaningful and inclusive public policy dialogue; and the means to finance and sustain their roles.

Tax deductibility is a key part of this, providing an opportunity for Australian taxpayers to support organisations with an established charitable purpose. This encourages social innovation and support for a diversity of causes as part of a healthy democracy.

In its 2010 report on the *Contribution of the Not for Profit Sector*, the Productivity Commission recommended enabling the public to provide greater support to a wider group of NFPs through the progressive extension of deductible gift recipient (DGR) status to charitable institutions.<sup>10</sup>

ACFID's position is that the Government should do nothing that impinges on a donor's right to donate to a tax deductible entity of their choice. The type of activity that donors should be allowed to donate to, and claim a deduction if they so choose, should cover the current range of activities allowed under current Australian law and regulation, including the full range of activities currently allowed under the Register of Environmental Organisations. Attempting to constrain the choice of citizen donors by privileging – through regulation or other means – some type of activities over others (e.g. “on the ground activities’ as opposed to ‘advocacy’) constrains donors, distorts the

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<sup>9</sup> See: <http://www.philanthropy.org.au/tools-resources/fast-facts-and-stats/>

<sup>10</sup> Productivity Commission, 2010, *Contribution of the Not-for-Profit Sector*

market for public donations and increases red tape and inconsistency in the application of Government regulation.

ACFID recommends that the Inquiry:

- Endorse the freedom of citizens to donate to tax deductible NFPs of their choice under current Australian law.
- Affirm the principle that the Government should not – as a rule – interfere in the regulating the types of NFP activities that citizens can donate to under current Australian law.

## Annex A: ACFID Members

### Full Members:

- ACC International Relief
- Act for Peace - NCCA
- ActionAid Australia
- ADRA Australia
- Afghan Australian Development Organisation
- Anglican Aid
- Anglican Board of Mission - Australia Limited
- Anglican Overseas Aid
- Anglican Relief and Development Fund Australia
- Asia Pacific Journalism Centre
- Asian Aid Organisation
- Assisi Aid Projects
- Australasian Society for HIV Medicine
- Australia for UNHCR
- Australia Hope International Inc.
- Australian Business Volunteers
- Australian Cranio-Maxillo Facial Foundation
- Australian Doctors for Africa
- Australian Doctors International
- Australian Federation of AIDS Organisations
- Australian Foundation for the Peoples of Asia and the Pacific
- Australian Himalayan Foundation
- Australian Injecting and Illicit Drug Users League
- Australian Lutheran World Service
- Australian Marist Solidarity Ltd
- Australian Medical Aid Foundation
- Australian Mercy
- Australian Red Cross
- Australian Respiratory Council
- Australian Volunteers International
- Beyond the Orphanage
- Birthing Kit Foundation (Australia)
- Brien Holden Vision Institute Foundation
- Bright Futures Child Aid and Development Fund (Australia)
- Burnet Institute
- Business for Millennium Development
- CARE Australia
- Caritas Australia
- CBM Australia
- ChildFund Australia
- CLAN (Caring and Living as Neighbours)
- Credit Union Foundation Australia
- Daughters of Our Lady of the Sacred Heart Overseas Aid Fund
- Diaspora Action Australia
- Diplomacy Training Program
- Door of Hope Australia Inc.
- Edmund Rice Foundation (Australia)
- EDO NSW
- Engineers without Borders
- Every Home Global Concern
- Family Planning New South Wales
- Fairtrade Australia New Zealand\*
- Food Water Shelter
- Foresight (Overseas Aid and Prevention of Blindness)
- Fred Hollows Foundation, The
- Global Development Group
- Global Mission Partners
- Good Shepherd Australia New Zealand
- Grameen Foundation Australia
- Habitat for Humanity Australia
- Hagar Australia
- HealthServe Australia
- Hope Global
- Hunger Project Australia, The
- International Children's Care (Australia)
- International Christian Aid and Relief Enterprises
- International Detention Coalition
- International Needs Australia
- International Nepal Fellowship (Aust) Ltd
- International RiverFoundation
- International Women's Development Agency
- Interplast Australia & New Zealand
- Islamic Relief Australia
- Kokoda Track Foundation
- Kyeema Foundation
- Lasallian Foundation
- Leprosy Mission Australia, The
- Live & Learn Environmental Education
- Mahboba's Promise Australia
- Marie Stopes International Australia
- Marist Mission Centre\*
- Marsh Foundation
- Mary MacKillop International
- Mary Ward International Australia\*
- Mercy Works Ltd.
- Mission World Aid Inc.
- Motivation Australia
- MSC Mission Office
- Nusa Tenggara Association Inc.

- Oaktree Foundation
- One Thousand Villages
- Opportunity International Australia
- Oro Community Development Project Inc.
- Oxfam Australia
- Palmera Projects
- Partners in Aid
- Partners Relief and Development Australia
- People with Disability Australia
- PLAN International Australia
- Project Vietnam
- Quaker Service Australia
- RedR Australia
- Reledev Australia
- RESULTS International (Australia)
- Royal Australian and New Zealand College of Ophthalmologists
- Royal Australasian College of Surgeons
- Royal Institute for Deaf and Blind Children
- Salesian Missions
- Salvation Army (NSW Property Trust)
- Save the Children Australia
- Service Fellowship International Inc.
- Scarlet Alliance: Australian Sex Workers Association
- School for Life Foundation\*
- SeeBeyondBorders
- Sight For All
- SIMaid
- So They Can
- Sport Matters
- Surf Aid International
- Tamils Rehabilitation Organisation Australia\*
- TEAR Australia
- Transform Aid International (incorporating Baptist World Aid)
- Transparency International Australia
- UNICEF Australia
- Union Aid Abroad-APHEDA
- UnitingWorld
- University of Cape Town Australian Trust
- Volunteers in Community Engagement (VOICE)
- WaterAid Australia
- Women for Women in Africa
- World Education Australia
- World Vision Australia
- WWF-Australia

#### **AFFILIATE MEMBERS:**

- Australian National University – School of Archaeology and Anthropology, College of Arts and Social Sciences
- Deakin University – Alfred Deakin Research Institute
- La Trobe University – Institute of Human Security and Social Change
- Murdoch University – School of Management and Governance
- Refugee Council of Australia
- RMIT – Global Cities Research Institute
- University of Melbourne – School of Social and Political Sciences
- University of Queensland – Institute for Social Science Research
- University of Sydney – Office of Global Engagement\*\*
- University of the Sunshine Coast – International Projects Group
- University of Technology, Sydney – Institute for Sustainable Futures\*\*
- Vision 2020
- University of Western Australia – School of Social Sciences\*\*

\* Denotes Interim Full Member

\*\* Denotes Interim Affiliate Member