

ACNC Review 2018 **Lock The Gate Submission**

Due: 28th Feb 2018

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World Class Regulation

The Australian Charities and Not-for-Profits Commission (ACNC) is currently an effective regulatory body for the charities sector. It has created the highest rate of voluntary compliance by the sector of anywhere in the world.

Changes already made by the ACNC in recent years have bolstered its oversight, improved its ability for the community to make complaints about charities, and increased its investigative might.

The ACNC already has unbelievably broad powers when compared to oversight of the corporate sector. For example, the ACNC can direct charities, suspend a board or committee member, revoke a charity's registration or apply administrative penalties.

Further reforms to the power of the ACNC are discouraged.

Current Objects Maintained

We would like to see the ACNC continue to be supported by the government to undertake its current objects. These were reached through broad scale consultation and consensus of stakeholders.

The current three objectives of ACNC are:

1. To maintain, protect, and enhance public trust and confidence in the Australian not-for-profit sector;
2. To support and sustain a robust, vibrant, independent, and innovative Australian not-for-profit sector; and
3. To promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.

These objects are suitably broad and have proven in the last five years to guide the ACNC well.

We do not support any change to the objects.

Increased Transparency

Under current secrecy provisions, it is not possible for the ACNC to provide details about investigations unless they have the approval of the charity being investigated or are correcting the public record.

There is a desire by this Review to increase the transparency, which we fully support and would recommend this be implemented by increasing the transparency around ACNC investigations. This would build public confidence further in charities and also in the ACNC's ability to be an effective regulator. Of course a charity which is the subject of a complaint should not be assumed guilty or publicly identified if they are currently under investigation.

Assets of a Ceased Charity

The current legislation around the assets of a charity when it ceases to operate are concerning. Stronger provisions should be put in place to ensure that if a charity has raised

funds for a specific purpose and then ceases operations, any retained funds should be directed to the same purpose.

Charities in Advocacy

Lock the Gate has more than 120,000 supporters and over 450 community groups across Australia. Thousands of these everyday Aussies choose to support us because they believe the work we are doing, including our advocacy activities, are important to Australian society and our democracy.

Charity law governs the work that we do.

We follow the following provisions of charity law set in relation to advocacy:

- charities cannot donate to any political party or candidate
- charities cannot produce how to vote cards
- charities cannot stand candidates in elections
- charities cannot advocate publicly on any issue that is not part of their charitable purpose.

Under charity law, charities can rate the policies of any political party, but only in relation to the charity's charitable purpose.

Lock The Gate advocates on issues around environment, protection of water and land. By rating the policies of a political party concerning water and land, mining and unconventional gas we are fulfilling our obligations under charity law and educating the public.

Australians have demonstrated they want to support balance and to ensure governments are exposed to wide ranging advocacy, not limited to lobby groups serving the vested interests of for-profit corporations. There is high public support in Australia for Lock the Gate to be able to undertake advocacy work, and an understanding that positive outcomes are most effectively created by proactive improvements to legislation to better protect land and water.

This is an important aspect of our democratic process. Charities are critical to informed and balanced public policy.

We would like to highlight that there are no such advocacy restrictions applied to corporations or industry lobby groups such as The Minerals Council and APPEA. These are free to promote their vested interests during election periods, telling people how to vote, and this can be seen frequently. For example, in the 2017 WA state election the National Party leader lost his seat and was specifically targeted by mining interests because of his advocacy of policies to increase mining royalties to \$5 per tonne.

In order to support a balanced democracy, it is critical that charities are able to be vocal on issues that directly relate to their charitable purpose. Charities, unlike business, are already regulated and restricted in their advocacy activities.

We do not support involvement of the ACNC to further restrict the advocacy activities of charities.