

15 February 2013

*spirit
of
Change*

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The Manager
Philanthropy and Exemptions Unit
Indirect, Philanthropy and Resource Tax Division
The Treasury
Langton Crescent
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Via Email: NFPreform@treasury.gov.au

Dear Sir / Madam

Re: Development of Governance Standards – Consultation paper, December 2012

Thank you for the opportunity to contribute to the development of the Australian Charities and Not-for-profit Commission (ACNC). The National Native Title Council (NNTC) welcomes the opportunity to provide a submission on proposals to introduce governance standards for charities registered with the ACNC. The NNTC notes that current governance requirements for charities are complex for the entities who work in the native title context.

The NNTC is the peak body of Native Title Representative Bodies and Native Title Service Providers (NTRBs/NTSPs) from around Australia being formally incorporated in November 2006. The objects of the National Native Title Council are, amongst other things, to provide a national voice for NTRBs/NTSPs on matters of national significance affecting the native title rights of Aboriginal and Torres Strait Islander people.

The NNTC was incorporated as a public company limited by guarantee under the Corporations Act in 2006. It is registered for GST and was endorsed with DGR status as a Public Benevolent Institution in February 2010.

All NTRBs and NTSPs are Not-For-Profit (NFP) entities and are either incorporated as Aboriginal Corporations under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (the CATSI Act) or as public companies limited by guarantee under the Corporations Act 2001.

Proposed governance standards

As stated in its Consultation paper, the proposed standards for charities to be registered with the ACNC are based on a framework for minimal outcomes. The NNTC considers the proposed standards are sufficiently flexible to allow corporations to achieve their own objectives and determine their own management practices based on the size of the corporation. The NNTC also considers that the proposed standards allow the ACNC to achieve its desired objective of ensuring public trust and confidence in the sector.

The NNTC believes that the proposed governance standards are consistent with requirements set out in both the Corporations Act 2001 and the the CATSI Act. Whilst this implies a fairly coherent transition process to the ACNC for most orrganisations, the NNTC would recommend that corporations be provided with ongoing education, training and assistance to ensure full compliance with the standards.


As stated in a previous submission by the NNTC, for those organisations incorporated under the CATSI Act the Office of the Registrar of Indigenous Corporations (ORIC) has significant expertise in tailoring assistance and training for Indigenous organisations. The NNTC believes it is essential for Indigenous corporations to continue to receive tailored education, training and assistance that responds to the particular needs of Indigenous groups.

The NNTC also seeks clarification on which regulatory authority has the responsibility of oversight for those organisations incorporated under the CATSI Act. There remains some duplication of roles and responsibilities between ORIC and the ACNC which the NNTC seeks to be addressed.

Finally, not all Indigenous corporations are NFPs and established for charitable purposes. The NNTC believes that the ACNC and ORIC need to work together to ensure that Indigenous corporations are fully aware of their compliance responsibilities under the various legislative instruments.

I trust that the above comments are useful for your purposes, however if you have any queries or require any further information please do not hesitate to contact me at your convenience.

Yours sincerely



Brian Wyatt
Chief Executive Officer