



AUASB Board Meeting Summary Paper

AGENDA ITEM NO. **13(a)**
Meeting Date: 10 September 2012
Subject: ACNC Update
Date Prepared: 27 August 2012

Action Required

For Information Purposes Only

Agenda Item Objectives

To update the AUASB on recent discussions with Treasury about the 2nd draft ACNC Bill 2012 and implications for audit and assurance matters. Provide the AUASB with an update on the House of representative Committee recommendations into the ACNC legislation realised on 17 August 2012.

Background

On 26 March, AUASB staff held a teleconference with policy and accounting staff of the ACNC taskforce and ACNC.

The AUASB provided some feedback on the proposed legislation to the ACNC in that it seems only to cater for the requirements of an audit and not a review even though this is an option for some of the Tier 2: medium sized entities.

The ACNC also asked the AUASB if it felt the legislation should cover the area of appointment, removal and resignation of auditors which it is currently silent on. We recommended that the legislation should deal with these aspects so that the requirements are explicit and can be applied consistently. It was noted that these requirements could be based on those in the *Corporations Act 2001* if appropriate.

On 3 May 2012, AUASB staff had further discussions with Treasury about the 1st draft of the proposed ACNC legislation reiterating the points made above and noting that until a 2nd draft of the ACNC Bill 2012 was received by the AUASB it would be difficult to comment on specific provisions.

The AUASB received the 2nd draft ACNC Bill 2012 on 8 May 2012 and were requested to provide any comments by Friday 18 May 2012. The AUASB specific comments were tabled for the Board's consideration at the June AUASB meeting.

On 2 August, the AUASB had further discussions with Treasury and ASIC regarding the 3rd draft of the ACNC Bill. Treasury specifically requested the AUASB for feedback on the draft which was given in the meeting essentially around use of terminology and clarity over whether the auditor had to report on an exception basis within their opinion or conclusion and the applicability of the AUASB standards under the proposed collective and joint reporting clauses of the legislation. A follow up email was also sent to

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Treasury on 8 August 2012 highlighting a few unresolved issues regarding use of terminology and a copy of the Department of Finance and Deregulation Circular 2011/08 that clarifies the meaning of audit and assurance terms and when they should be used.

Outcomes from House of Representatives Standing Committee on Economics into ACNC Legislation issued on 17 August 2012:

There have been a number of key recommendations/ issues raised by the Committee as follows:

1. Regulatory Burden – objective of the ACNC Bill to explicitly include reduction of red tape.
2. Reporting Framework – Commissioner has discretion to accept reports or material prepared for other agencies or levels of government as reports for the purpose of the reporting framework under the Bill. This arrangement should be time limited and be reviewed as the lodge-once-use-often process is developed.
3. Governance Standards – the government to consider incorporating existing or sector-developed governance standards into the Bill through regulation, in addition to a default set of governance standards.
4. Directors Liability – the committee recommends that Treasury redraft Division 180 – Obligations, liabilities and offences, of the ACNC Bill with a view to clarifying its intent and operation.

Some other points raised by the dissenting members of the Committee:

1. Lack of harmonisation across government agencies – additional layer of red tape to the operation of NFP. Overlap of state and territory requirements with a present lack of harmonisation with States and Territories. ACNC bill needs to show a true reduction to NFP's red tape.
2. Powers and Penalties- may deter members of the public taking up voluntary roles within the sector as they are very heavy handed.
3. Lack of certainty – as to what is required of the sector agencies and the directors of the agencies (TCWG) under the proposed governance and reporting requirements of the bill. Also noted that the governance and reporting standards have not yet been released for public consultation. Nevertheless the Committee has recommended that these be principles based and flexible and there be further consultation with regards to these areas.
4. Consultation process – has been unnecessarily rushed.

Governments Progress on ACNC Bill since 18 August 2012

The Government considered the recommendations of the report and made some amendments to the draft legislation. The ACNC Bill was introduced to the Australian Parliament House of Representatives on Thursday 23 August 2012.

After being tabled in the House of Representatives on Thursday 23 August, the *Australian Charities and Not-for-profits Commission Bill 2012* (ACNC Bill), and the related *Not-for-profits Commission (Consequential and Transitional) Bill 2012*, are currently being considered by the Senate Standing Committee on Community Affairs and the Parliamentary Joint Committee on Corporations and Financial Services. The committees are expected to report on 12 September 2012.

Material Presented

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