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Submission to the Board of Taxation on the  
Draft Charities Bill 2003

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## Introduction

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Volunteering Australia is the national peak body working to advance volunteering in the Australian community. Its role is to represent the diverse views and needs within the volunteer sector while promoting the activity of volunteering as one of enduring social, cultural and economic value.

The role of Volunteering Australia is to:

- encourage and facilitate volunteer participation
- promote volunteering and its principles
- encourage best practice in volunteer involvement, management and referral
- advocate for the proper recognition of volunteer effort in Australia
- provide sound policy advice on matters relating to volunteering
- undertake any action believed to be in the best interest of volunteering in Australia
- establish co-operative relationships with key national and international stakeholder organisations
- conduct, promote or facilitate research on all aspects of volunteering in Australia

Volunteering Australia exists to raise the profile of volunteering in Australia and to ensure that the contribution volunteering makes to society is accounted for and recognised.

### Organisational Profile

Volunteering Australia Inc is an incorporated body under the Australian Capital Territory Associations Incorporation Act 1991. It was established in October 1993 and has received funding under the National Secretariat Program since 1997.

Volunteering Australia has a membership of seven state and territory volunteer centres which in turn have a membership of around 5,000 not for profit organisations.

Volunteering is governed by up to a board of eleven members drawn from its membership and coopted persons

Volunteer based organisations across all industries, including environment and conservation, arts, business, tourism, education, emergency services, health, sport, recreation and leisure are represented through their respective state/territory peak bodies. Volunteering Australia also works with and supports a network of around 90 regional volunteer centres in addition to its broader network of not for profit organisations.

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## Background

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From its beginnings as a settled colony and before, Australians have assisted each other in times of need and hardship. Throughout our documented history we have examples of volunteer effort and its results. Whilst much voluntary activity remains informal, the trend towards formal involvement is growing. For many years now Australians have acknowledged and relied upon the voluntary activity of the rural fire brigades, the Australian Red Cross, the Salvation Army and other such institutions. The worldwide trend in developed countries towards an expanded third sector has led to an overall increase in the involvement of volunteers and if taken as a separate economy would be the 8th largest economy in the world<sup>1</sup>. It is estimated that there are 700,000 not-for-profit organisations in Australia alone<sup>2</sup>.

Whilst the volunteer numbers have been steadily rising in Australia a number of large public activities have added to an increased awareness and acceptance of volunteering as a valued mainstream activity. Most noteworthy was the Sydney Olympics in 2000, which involved 47,500 volunteers during the event and the Paralympics which involved a further 15,000

The following year (2001) was the UN International Year of Volunteers, which combined publicity, grants and events to bring the value and activities of volunteers to public notice. Sadly, natural and other disasters, such as bushfires, that affect Australia also highlight our dependence on the volunteer workforce.

### Volunteer Statistics

4.4 million Australians over the age of 18 years (equivalent to 32% of the adult population), contributed 704.1 million hours of volunteer work to the Australian Community during 2000<sup>3</sup>. This is an increase from 24% of the population, estimated in 1995<sup>4</sup>. Therefore volunteering in Australia has experienced a rise of 37.8% over five years.

#### **Who they are**

The proportion of men and women that volunteer is roughly equal with 31% of the adult male population and 33% of adult females contributing volunteer hours.

Volunteering rates vary across population age ranges:

- 18 – 24 years – 26.8%
- 25 – 34 years – 27.5%
- 35 – 44 years – 40.1%
- 45 – 54 years – 35.4%
- 55 – 64 years – 32.5%
- 65 – 74 years – 30.3%
- 75 plus years – 17.8%

The numbers of volunteers have increased across all age ranges by at least 30%, with the exception of the 65–74 years age group. The 55–64 years age range experienced the highest increase in participation between 1995 and 2000 with an increase of 53%.

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<sup>1</sup> L. Salaman & H. Anheier., *The Emerging Sector Revisited: A Summary*, Johns Hopkins Center for Civil Society Studies, 1999

<sup>2</sup> M. Lyons, *The Contribution of Nonprofit and Cooperative Enterprises in Australia*, Allen and Unwin, 2001

<sup>3</sup> *Voluntary Work Survey 2000*, Australian Bureau of Statistics, 2001

<sup>4</sup> *Voluntary Work Survey 1995*, Australian Bureau of Statistics, 1996

### ***Where they work***

Volunteers are involved in a wide variety of not-for-profit organisations. The sectors in which these organisations operate include: arts and culture, welfare and community, sport and recreation, education and youth development, religious, health, environment and animal welfare.

### ***What they do***

Volunteers work in a wide range of activities such as coaching and refereeing, performing and media production, befriending and counselling, fundraising and sales, preparing and serving food, transporting people and goods, repairing, maintenance and gardening, management and committee work, personal care, teaching, instruction and providing information, administration and clerical. The most common volunteering activities are fundraising (56%), management (45%), teaching (44%) and administration (41%).

### **Economic Value of Volunteering**

Volunteering contributes an estimated \$42 billion a year to the Australian economy. This staggering figure represents the contribution of Australian volunteers through both formal and informal means. Professor Duncan Ironmonger arrived at this figure from an analysis of the Australian Bureau of Statistics' (ABS) time use survey data.

The estimated figure is calculated by placing a dollar value on the time that the Australian population spends on volunteering for organisations (formal volunteering), volunteer support for adults and children (informal volunteering) and time spent on volunteer travel and other volunteer activities.

The 1999-2000 Non-Profit Institutions Satellite Account released by the ABS in November 2002 provides a more conservative estimate of the value of volunteer services of \$8.9 billion. However, some important exclusions from the Satellite Account must be noted. These figures do not include the value of volunteer services for entities such as public hospitals, universities, those in the finance or insurance industry and those who are not employers

### **Benefits of Volunteering**

- Volunteering builds capacity in the community sector, as volunteers:
  - Provide valuable services to the community.
  - Add to the capacity of community organisations.
  - Enable organisations to provide an alternative to government or corporate sector services.
  
- Volunteering gives the individual volunteer some of the following benefits:
  - Reduces isolation by introducing volunteers to new people.
  - Helps to develop skills and add variety to the volunteer's work experience.
  - Allows people to explore new situations and challenges.
  - Increases self-confidence.
  - Gives a sense of personal fulfilment.
  - Contributes to health and wellbeing.

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## Recommendations

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Volunteering Australia in making response to the exposure draft of the Charities Bill is commenting on *workability, public benefit test and additional administration*. Volunteering Australia broadly supports the submissions of ACOSS, Philanthropy Australia and Volunteering WA.

### Clarity and transparency

The Charities Bill proposes to review and codify the definition of charity and charitable purpose. The changes to the current situation are welcomed and will provide a degree of certainty to members of the public either relying on the services of a charity or donating to a charity.

From the point of view of volunteer involving organisations confidence in a charity translates to the community donating both volunteer time and money.

### Specific concerns

#### 1. Regulatory body

Neither the exposure draft nor the accompanying guidelines indicate which authority will be responsible for interpreting/overseeing the Act. The perceived benefits of a codified approach will be lost if the entity with responsibility for determining charitable and tax status is also the body that is responsible for collecting tax.

#### *Recommendation*

VA believes that an entity other than the Australian Taxation Office should be responsible for conferring or determining charitable status. Such a body would maintain a public record of charitable institutions, bring guidance to charities and provide public confidence in the legality of a charity. Part of its work would be to provide assistance to all jurisdictions in the determining and interpreting of charitable status.

This entity would build up a level of knowledge about the work and nature of charities and the circumstances within which they operate which would in turn bring confidence to the public and governments that an organisation has met the requirements of charitable status.

#### 2. Core definition

Since the core definition is a vital part of the Act in determining charitable status it should, in theory, be easily understood and interpreted. The core definition has embedded within it several components that could be dealt with differently.

### *Recommendation*

VA believes that the core definition should be constructed thus:

- Subsection (1) describes what a charity is and does. For example subsection (1)(a) and (b) would remain but subsection (1) (c) would read *'that only engages in activities that further or aid its dominant purpose'*.
- Subsection (2) would describe only the circumstances under which an entity does not have to meet the dominant purpose clause.
- Subsection (3) would describe the conditions where an entity would not meet the definition of a charity. We would question whether paragraph 4 (1) (e) adds any clarity to the in the core definition and that unlawful acts could be dealt with under other legislative provisions. This is where we believe that a regulatory body could also be helpful in determining whether an unlawful act is willful or otherwise and whether it should have an impact on charitable status.
- For clarity we believe paragraph 4(1)(f) should read *'is not an individual, a partnership, a political party, a superannuation fund or government'* to reduce confusion around government and government funded organisations.

### 3. Disqualifying purposes

*'the purpose of attempting to change the law or government policy.'* Whilst VA believes that this clause is meant to disqualify only those entities whose **dominant purpose** is to change the law or government policy it is of concern to any charitable organisation that may from time to time provide policy advice, with varying degrees of intensity, to governments in order to meet its dominant purpose.

Many changes in the law, government policy and social conditions have been brought about by the very act of providing sound advice or lobbying for change.

### *Recommendation*

VA believes that Part 8(2)(c) should be written along the lines of *'the purpose of attempting to change the law or government policy unless it is incidental to the furthering of the dominant purpose'* to provide explicit guidance for the interpretation of this clause.

### 4. Public benefit test

The public benefit test is a straight forward 'check list' to assist those applying for charitable status. We believe that wherever possible wording of the act should be clear and not subject to interpretation or arbitration. For example Part 2 subsection 7(2) uses the term 'numerically negligible'. The terms incidental and ancillary are also used in ways that may be the subject of future dispute.

### *Recommendation*

VA recommends that the wording of the Act is tightened to exclude or give explicit meaning wherever possible.

VA supports the view that dominant purpose of a charity should be altruistic.

## Summary

Volunteering Australia considers that in the main the Charities Bill is both workable and useful. Specific recommendations have been made regarding wording which may be unclear and create confusion.

We believe that a Bill defining charities will give a degree of assurance to charities, the public and government which is lacking in the current climate. We are hopeful that the Bill is amended so as to not place an undue administrative burden on charities. We do not believe it will be to the advantage of any sector of the community if the wording of the Bill is so open to interpretation that charities have to report in such a way as to prove or disprove concepts such as *'numerically negligible'* *'ancillary'* *'incidental'* or *'sufficient section'*.

We recommend that an authoritative regulatory body is created to give guidance on the interpretation of the Act, provide education to the charitable sector and timely and proper information to the public.