



## Once upon a time, there were Regional Not-for-Profit Community Service Providers...

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There are three broad categories into which productive endeavour in Australia can be separated. The first is the for-profit sector, across many and varied industries, from the very, very large to the so-called 'engine-room of the economy', small business. Then there is public service, including a myriad of coordination, support and delivery functions across a number of layers of government. And finally, there is activity that is outside of government and not intended to generate profit. It is the domain of what is often referred to as the third sector.

I have never been quite sure whether the title is a reflection on the timing of arrival, relative importance next to the other two, confusion about exactly what the term means, or a little bit of each. But the third sector in an Australian context is big, broad and vital. It is also under extraordinary pressure. The pressure appears to have reached a critical point which places at risk what the community has come to expect and in some instances rely on from the third sector.

For an audience including people who have come from and are returning to Australia's many regional, rural and remote locations, a struggling third sector carries even greater risks. I recognise that the third sector is broader than not-for-profit community services but it is this sub-sector that will be the focus of the following discussion. Non-government, non-profit community organisations play a special role in the life of non-metropolitan Australia.

### **A context for change**

In March 2009, the Productivity Commission received Terms of Reference to conduct a review into the Contribution of the Not-for-Profit sector in Australia.

*The Productivity Commission is requested to undertake a research study on the contributions of the not-for-profit sector with a focus on improving the measurement of its contributions and on removing obstacles to maximising its contributions to society.<sup>1</sup>*

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<sup>1</sup> Bowen The Hon Chris MP, Assistant Treasurer and Minister for Competition Policy and Consumer Affairs; Productivity Commission to Review the Contribution of the Not-for-profit Sector; Media Release (joint); Canberra 17 March 2009

In announcing the review, the Assistant Treasurer, Chris Bowen was keen to point out that the value of the not-for-profit sector was not being questioned. On the contrary:

*Any policy reform in this area will be aimed at strengthening the community sector's capacity to deliver services in response to community needs.<sup>2</sup>*

The resultant report was released on 11 February 2010 and in many ways it confirmed what was already known. The work being undertaken by not-for-profits in this country is incredibly diverse and represents a significant and increasing proportion of national economic activity.

The Commission found that Australia had around 600,000 not-for-profit organisations. Drawing on ABS data, it concluded that 59,000 of these organisations were economically significant, contributing approximately \$43 billion to Australia's GDP and in the order of 8 per cent of the nation's workforce in 2006/07. The sector had shown consistent and significant growth at an average of 7.7 per cent annually between 1999 and 2007. As well as people in paid employment, the sector attracted 4.6 million volunteers representing a wage equivalent value of \$15 billion.<sup>3</sup>

The Commission's extensive set of recommendations covered five domains:

- Building a better understanding of the value of the community sector and tracking and reporting on its impacts;
- Improvements to regulation, in particular the development of a central national regulator and register of not-for-profits;
- Encouraging individual and collective philanthropy and harmonising fundraising legislation nationally;
- Facilitating sector development and innovation; and
- Reforming government purchasing and contracting arrangements.<sup>4</sup>

Like many Productivity Commission reviews, the findings generated considerable public discussion, not the least amongst not-for-profit organisations. Most commentators, including those within the not-for-profit sector welcomed the report and noted how important and useful the process had been. There were however some sensible words of caution.

The briefing ACOSS prepared for its membership recognised important limitations, including the fact that the primary reason for the Productivity Commission's existence is to encourage a more productive economy. It is not always possible to ascribe market 'value' or to quantify economic activity in not-for-profits that operate in non-market areas or entirely outside of the market.

*While such activities might exclude these organisations from most measures of economic activity, they are also definitive elements of the not-for-profit sector, for instance when the mission of a not-for-profit is to support their local community. The fact that such a contribution may be hard to calculate within a*

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<sup>2</sup> Bowen; Media Release 17 March 2009 (ibid)

<sup>3</sup> A summary of key facts confirmed in the Productivity Commission's report can be found on the Commission's web-site at <http://www.pc.gov.au/inquiries/completed/not-for-profit/report>

<sup>4</sup> Productivity Commission; *Contribution of the Not-for-Profit Sector Research Report*, Canberra, January 2010, pages XLI-LII (Recommendations Summary)

*market-based framework of economic activity does not make it any less valuable, least of all to the not-for-profit sector.*<sup>5</sup>

In the years since 2010, almost every state and territory government and in particular the Commonwealth has conducted some sort of review of what is spent on not-for-profit activities and the commissioning, contracting and performance monitoring associated with that expenditure. Assistant Treasurer Chris Bowen's 2009 commitment to enhance the work of the not-for-profit sector and to strengthen its capacity to deliver services in response to community needs has not necessarily been either the focus or outcome of review work since the Productivity Commission completed its study. It is almost as if the updated clarity the Commission brought to the scale and importance of not-for-profit work caught governments by surprise and made them nervous about whether the investment was warranted, wise, or both.

Some of the subsequent reform has been extremely positive with the potential to deliver genuine benefit in the years ahead. Although not universally popular, I would place the establishment of the Australian Charities and Not-for-Profit Commission (ACNC) at the top of the list of positives.

In a relatively short period of time the ACNC has established an effective regulatory presence and a national register of charities and not-for-profits. The register in particular has been an important innovation, providing transparency and making available appropriately scaled information about charities and not-for-profits operating in Australia. The register compares favourably to similar facilities internationally, both in ease of access and the quality of data it contains.

The ACNC is also contributing positively to the breadth of not-for-profit research in Australia. It has commissioned several important studies, including the Curtin Charities Report, analysing data from more than 38,000 registered charities included in annual information statements lodged before 30 June 2014 and the Ernst and Young research report on Commonwealth Regulatory and Reporting Burdens.<sup>6</sup> In partnership with the Australia and New Zealand Third Sector Research Incorporated (ANZTSR), the ACNC has also funded a research award program. An excellent example of the discussions that program can generate is Dr Angie Bletsas's study of Independence in the Not-for-profit Sector, released last month.<sup>7</sup>

The Independence study conducted 35 interviews with a variety of not-for-profit agencies and representatives in South Australia and the Australian Capital Territory. Amongst the themes identified in those interviews was a shared recognition that independence is 'crucial' to the not-for-profit sector and the identification of

*...a tension for the sector in terms of the dual role as providers of government-funded services and as civil society actors connected to local communities/communities of identity and of interest.*<sup>8</sup>

The value of a dedicated charities and not-for-profit regulator is infinitely greater than having those functions subsumed within the Australian Taxation Office or the

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<sup>5</sup> Boyd-Caine, Tessa; *Contribution of the not-for-profit sector Productivity Commission Research Report – ACOSS analysis and priorities for future advocacy*; Australian Council of Social Services, Sydney, February 2010, page 2

<sup>6</sup> Copies of the Curtin and Ernst and Young reports can be accessed on the ACNC's website, at [http://www.acnc.gov.au/ACNC/Publications/Rpt\\_LP.aspx](http://www.acnc.gov.au/ACNC/Publications/Rpt_LP.aspx)

<sup>7</sup> Bletsas, Angie; *Independence in the Not-for-Profit Sector, Research Project Report*; ACT Council of Social Services, Canberra, June 2015

<sup>8</sup> Bletsas, Angie; *Independence in the Not-for-Profit Sector*, *ibid*, page 4

Australian Securities and Investments Commission. Through its other activities, the ACNC is adding to our collective understanding of the value of not-for-profit work. The longer-term aim of reducing the regulatory burden involved with duplicative or ineffective state and territory specific rules and where appropriate replacing those with the ACNC's activities, still has a considerable distance to travel. That process may gain traction now that the current Commonwealth Government's intention to repeal the ACNC seems to be off the agenda, at least for the time being.

The new challenges for the sector do appear to outweigh the recent improvements however. It is worth exploring one of the key challenges in greater detail – a fresh wave of market-based competition reform directly impacting the not-for-profit sector.

### **Marketising Community service**

There are many ways in which the pressures facing community service providers have been felt in recent years. For example, there has been considerable debate about the role of government funded not-for-profits participating in advocacy. In some jurisdictions or specific areas of service activity, government funding is conditional on not advocating for policy or regulatory change.<sup>9</sup>

There have also been wholesale recommissioning exercises, within and across jurisdictional boundaries. Some of those processes appear to have prioritised savings to such a degree that the probable consequences of diminishing or even ceasing to fund services altogether were either not considered, or not considered to be important.

One very large tendering process, conducted by the Department of Social Services (DSS), was the subject of a Senate Inquiry earlier this year. In its submission to the Inquiry, ACOSS summarised the level of concern about cumulative cuts to not-for-profit community services and their impact on the vulnerable and disadvantaged:

*The Department of Social Services cuts, commenced just before Christmas 2014, form part of the tsunami of cuts to community-based services which the Federal Government is now implementing, alongside the Attorney-General's Department funding cuts to legal services; and cuts under the Indigenous Advancement Strategy within Department Prime Minister and Cabinet. Cuts to community-based health services have also been foreshadowed to commence in 2015-16.*

*It is important for the Committee to conduct its Inquiry with this understanding of the broader context of an overall reduction in support and services to people on low incomes and vulnerable communities right around the country.*<sup>10</sup>

The overall level of cuts in resources to not-for-profits and the often punitive nature of welfare reform in general are subjects for another day. More relevant to considering moves to marketise or commercialise community service provision are the ACOSS

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<sup>9</sup> See for example news coverage in June 2015, detailing the concerns of Community Legal Centres about restrictions on their ability to lobby in relation to policy and law reform issues <http://www.abc.net.au/news/2015-06-12/community-legal-centres-fear-being-silenced-by-gag-clause/6543148>

<sup>10</sup> Australian Council of Social Services; *Submission to Senate Community Affairs Committee Inquiry: Impact on service quality, efficiency and sustainability of recent Commonwealth community service tendering processes by the Department of Social Services*; Sydney, March 2015, page 3

observations about the process preceding the DSS tender and the instruments used to establish new contractual relationships.

Rather than seizing an opportunity to engage communities in conversations about needs and how best to address those needs, ACOSS described the communication of Departmental priorities as having been conducted 'via briefing' not consultation.<sup>11</sup> In relation to the formal terms of agreements, ACOSS submitted:

*Contract terms and conditions have challenged, and in some cases destroyed, relationships and collaborative partnerships.*<sup>12</sup>

The Department of Social Services 2014 tender process is an example only but it is symptomatic of what seems to be a pronounced shift in the way that governments consider the value of and engage with community not-for-profits. In many instances, detailed review of what governments purchase, from whom and how, have preceded or accompanied recommissioning processes. Those reviews have shared some common themes, including the requirement to find savings in a difficult budget environment and looking for efficiencies, by sharing support functions or making greater use of new technology. It is hard to argue with genuine attempts to ensure that the expenditure of public funds produces the best possible value and outcomes.

There have been other consistent but more controversial messages. Although not always expressed in clear terms, my interpretation of those messages is:

- Governments would prefer to reduce the overall number of not-for-profit providers.
- There is an appetite for generating additional funding for community service delivery through building quasi-investment markets.
- The delivery of community services is increasingly being opened to for-profit providers, or put another way the limitations on services that can only be delivered by providers not motivated by profit are diminishing.

It is rare in the reporting of outcomes of review processes, either conducted directly by governments or commissioned externally, for commentary to be other than supportive of the value of not-for-profit work. The repetition of statements of support belie an undercurrent that somehow not-for-profit providers are a class less capable, less motivated or less worthy of government support than those who have the discipline of making profit to keep them focused. With an underlying commitment to open new markets in order to improve services and reduce costs, the conversation about not-for-profits feels more like an effort at preservation than respecting fundamental differences in what motivates the separate sectors.

There is no better example of this tension than the recommendations in relation to Human Services contained in the final report of the Harper Competition Review released in March 2015. Recommendation 2 in the Human Services chapter begins with an overarching statement of intent.

*Each Australian government should adopt choice and competition principles in the domain of human services.*<sup>13</sup>

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<sup>11</sup> ACOSS; *Submission to Senate Community Affairs Committee (ibid)*; page 7

<sup>12</sup> ACOSS; *Submission to Senate Community Affairs Committee (ibid)*; page 5

<sup>13</sup> Harper, Ian; Anderson, Peter; McCluskey, Su; O'Bryan, Michael; *Competition Policy Review Final Report*; The Treasury, Canberra, March 2015, page 254

To assist in delivering on this intent, the Review Committee sets out five guiding principles, the fourth of which is:

*A diversity of providers should be encouraged, while taking care not to crowd out community and volunteer services.*<sup>14</sup>

The Committee did not elaborate on the actions required to prevent *crowding out* of community and volunteer services, or what the consequences might be if that occurred. They were also silent on why markets had not naturally evolved for services on which the most vulnerable and disadvantaged rely, or on the propensity for some existing markets to exacerbate or exploit vulnerability and disadvantage.

Another example suggesting the current view of the third sector is limited to being a subset of the first is the conversation about what constitutes good governance. Recurring recommendations to build the governance capacity of not-for-profits appear to assume directly or by implication that for-profit governance approaches are better. Commentary focuses on convergence rather than building a deeper understanding of where differences might arise and why they are important. Similarly the weight of writing on the subject rarely if ever suggests that for-profit governance has anything to learn from not-for-profits.<sup>15</sup>

There is no doubt the traditional reliance on public funding, distributed by governments, represents a major risk for the not-for-profit sector. It is especially problematic during periods of economic realignment, or in the context of planning for an obviously ageing population. Again, review and reform processes have looked to market-based thinking for inspiration and solution. Not-for-profits are encouraged to look at ways to commoditise their service offerings, in order to forge partnerships with major corporates or philanthropy. Whilst I understand the logic of diversifying funding streams, for example through the development of social impact bonds, the collective history of investment markets weighs heavily against this idea being the answer for sustainable welfare funding that reaches the most disadvantaged.

Investors may genuinely be looking for ways to improve their communities, or as I often hear it described, to 'give back'. What motivates an investor is different to and distinct from what motivates a donor or volunteer. It is also important to explore in a more sophisticated way not just the economic motivations of governments as the primary funders of support services, but the long-term implications of shifting responsibilities that help frame the contract between citizens and the state to a reliance on private or corporate investment.

There are many other issues that could and should be explored in greater detail. A short hand summary of recent developments does raise significant concern if you consider that a strong, independent not-for-profit sector is important. Not-for-profit providers are being told they must compete with for-profit providers to deliver services to vulnerable and disadvantaged people. In order to compete, not-for-profits will be required to think, plan and behave more like for-profits.

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<sup>14</sup> Harper, et al, *Competition Policy Review Final Report*; *ibid*

<sup>15</sup> See for example Roberts, Swain; Watson, Heather; *The Continuing Convergence of Governance Between Not-for-profit and For-profit Boards*; Article reproduced online by Better Boards Australasia Pty Ltd ([www.betterboards.net](http://www.betterboards.net)), 8 June 2015

## Can community based not-for-profit service delivery be sustained?

I have provided some background on the current challenges confronting community not-for-profit providers. How well is the sector faring in meeting those challenges? In a major speech on the Future of the Community Welfare Sector in May 2014, Brotherhood of St Laurence CEO Tony Nicholson expressed grave concerns about the direction the sector is heading.

*Our sector has evolved to a critical stage underpinned by a particular paradigm. Central to this paradigm is the idea that our sector can continue to meet society's current and emerging needs by contracting to government, expanding and aggregating organisations, driving for greater efficiency, and further professionalising, regulating and circumscribing care.*<sup>16</sup>

Reflecting on his own experiences, Nicholson urged a return to simpler times when the not-for-profit sector was a mobilising agent for community ideas and passion for social change. There is no doubt the community sector, as the name suggests, is at its most relevant and potent when genuinely connected to and working with community. It is also true to say that the larger and more complicated not-for-profits become, the harder it is to build and maintain genuine community relationships. But is the problem one associated with professionalising, or commercialising, and is there any practical difference between the two?

Community services cannot, in my view, return to a time where intending to do the right thing is enough. It is reasonable to expect that not-for-profits will keep striving to improve and to stay abreast of developments in areas of practice relevant to their work. To accept otherwise assumes that people who experience any number of vulnerabilities and disadvantages, including low income, unemployment, health problems and so on should put up with whatever they can get, even if it is second rate. Being the best not-for-profit provider you can be requires a professional attitude and I see no rational disagreement with that proposition.

The traits of being professional do not include being the biggest, or securing the most funding. Where indicators of that type are treated as equal to or above the needs of the clients and communities a not-for-profit serves the nature of the entity has altered irrevocably. Another respected elder of the community sector, St Vincent de Paul CEO John Falzon, recently delivered a stirring address at the Progress 2015 Conference in Melbourne, aptly titled the *Resistance and Hope Speech*. Falzon suggested that community providers may in fact be contributing to their own demise in a race for market share:

*If we accept the lie that government should withdraw  
from the arena in which inequality is being battled  
how can we be surprised by the marketisation of essential services  
the not-for-profits unwittingly clearing the path  
for the multinational companies to take over the space  
and put profits before people?*<sup>17</sup>

There is no doubt that the environment for resources to sustain community not-for-profit services is tough and will likely remain that way for some time. The best hope

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<sup>16</sup> Nicholson, Tony; *The Future of the Community Welfare Sector*, Speech for the Brotherhood of St Laurence, Melbourne, 27 May 2014, page 3

<sup>17</sup> Falzon, John; *Resistance and Hope Speech to Progress 2015 Conference*; St Vincent de Paul Society, Melbourne, 7 May 2015

for sustaining the sector may not be so much about money. Borrowing from both Nicholson and Falzon, as a traditional voice of the marginalised, community providers might be better served in bringing their passion and professionalism to bear on much older concepts like fairness and equity.

### **The elevated risks for Regional, Rural and Remote Communities**

In September 2014 the agency in which I work, Shepparton-based FamilyCare, joined a group of independent regional Victorian community not-for-profits in providing a submission in response to the draft report of the Harper Competition Review. We shared a concern that the conversation about the value of community, not-for-profit and volunteer endeavour was not only lacking but thoroughly misinformed. We also held the view that the potential damage to the sustainability of community not-for-profit services was at its most acute in regional, rural and remote settings.

The submission provided a number of practical examples of how regional community not-for-profits harness and channel goodwill to the broader benefit of those communities. The examples included FamilyCare's Annual Charity Golf Day, which celebrated its 20<sup>th</sup> anniversary in March 2015, The Bridge Youth Service which not only collects and redistributes donations of goods and clothing through its REVAMP opportunity shop it also provides training and employment options for disengaged young people and Mallee Family Care's Chances for Children which in 15 years of operation, has assisted more than 1100 young people by providing donated grants in excess of \$4 million.<sup>18</sup>

I have worked in the not-for-profit community sector for just over twenty years. The last five years have been in a regional setting. The contributions that well-connected and focussed not-for-profits deliver can be vital regardless of where they are located. But there are differences between metropolitan and rural and regional providers.

*Rural and regional community groups tend to be a more accurate reflection of their communities and more directly connected with and answerable to those communities. Challenges faced are more easily shared and understood. That deep engagement with community is not easily replicated by outside providers. A commercial comparison might be the myriad challenges created by fly-in/fly-out workforces, particularly in mining communities. We strongly oppose any replication of those problems in the delivery of community services.<sup>19</sup>*

A fresh wave of ill-considered competition, underscored by an expectation that market principles always work, will place extraordinary pressure on not-for-profits located in and committed to regional areas.

Significant by its absence in the Harper review is any analysis of what attracts people to donate or volunteer to assist a community not-for-profit. In the context of recommendations emphasising as a foundation principle that not-for-profits and for-profits should be allowed to compete in the same space, that is a glaring omission.

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<sup>18</sup> The Bridge Youth Service; FamilyCare; The Independent Agency Network (IAN); North East Support and Action for Youth Inc (NESAY); *Comments on the Draft Competition Review Report*; FamilyCare, Shepparton, 22 September 2014, pages 6 and 7

<sup>19</sup> The Bridge, FamilyCare, IAN and NESAY; *Comments on the Draft Competition Review Report*; *ibid*, page 9



One can safely assume I think that the attraction to freely give time, labour, money or all three, to a profit generating enterprise will not necessarily be the same.

Historically community service provision has evolved precisely because of market failure or perversion. Exactly what we have been missing by not having the for-profit sector involved is entirely unclear. If we encourage for-profits to enter that space and not-for-profits disappear as a result or cast their missions and values aside to survive, we should be absolutely certain that regional communities will not end up totally abandoned if the promised markets do not materialise, or are not sufficiently profitable to be sustained.