



**Australian
Community
Philanthropy** m

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Australian Community Philanthropy (ACP) is a not for profit organisation incorporated in 2007 and granted charitable status by the Australian Taxation Office in March 2008. ACP was established with the mission to build and support community foundations and the communities that support them.

Community Foundations began in Australia in 1996, with the Melbourne Community Foundation and there are now over 30 Community Foundations across Australia, the majority of which serve rural communities. These community foundations vary in size and area covered. Most rely heavily on volunteer input, with minimal part time staff. Most have been set up with seed funding and support from The Foundation for Rural and Regional Renewal and mentoring from existing foundations through networking. Many have relied on the philanthropic generosity of founding donors and all have worked to ensure that running costs are kept to a minimum. Community Foundations are explicitly public with a strong existing framework for reporting, both to their communities and under corporation law.

Australia is a vast country in geographic area, with varying and changing needs across all regions. Our community foundations are set up to best interpret the needs of their specific area and some cover geographically large areas, whilst others cover more densely populated areas. In Australia there is generally, a low, but growing level of knowledge about community foundations and a lack of longer term sources of funding.

ACP was established to assist in building the capacity of foundations, by providing networking, learning opportunities, fellowships and peer support programmes. It aims to act as a focus point for consultation with external stakeholders, government, philanthropic donors, national and international organisations. Currently we represent twelve community foundations and five individual members and we aim to promote collaborative approaches and develop and strengthen networks of community foundations and other philanthropic institutions, nationally, regionally and internationally.

Community Foundations are independent, philanthropic, community based, not-for-profit organisations, set up by a community to encourage and allow the community to address social, cultural and environmental issues impacting on their area or region. They provide an opportunity for communities to develop a better understanding of the needs and assets of their region and to invest in its growth and development. Through the public ancillary funds of community foundations, small

amounts of money can be invested, added to or combined with larger donations for the good of the community. They offer the possibility for all members of the community to have a part in this process and develop their philanthropic involvement no matter what the size of the individual investment. For some this investment will be through volunteering, for some, small donations to a sub-fund and for some a larger tax-deductible donation.

Their structure gives them flexibility to introduce new grant programs around issues of local concern at any time, as long as there are funds available and the need is evident locally. They are a philanthropic community needs knowledge bank, within the community, able to assist donors and community organisations connect to make a difference.

Community Foundations act as facilitators and convenors, bringing together different groups within the community to tackle current problems or take action where there are opportunities. They are publicly accountable because of the corporate trustee structure, which requires compliance with the Corporations Act 2001.

Community foundations are not only engaged in grant making, they are also involved in running projects that support and build their community. They are usually also funding non-DGR organisations through a Charitable Fund or through their trustee company, which is not a bare trustee but an active Charitable Institution.

Australian Community Philanthropy, through the directors, is pleased to have the opportunity to comment on some of the points raised in the Discussion Paper –“Improving the Integrity of Public Ancillary Funds.” [Before responding to the detailed questions in the Discussion Paper, we would welcome Treasury’s consideration of creating a separate category for community foundations. The current structure, requiring a public ancillary fund, is cumbersome and confusing for volunteers setting up community foundations. Community foundations would prefer to operate as a simple company structure but are prevented from this model currently as the public ancillary fund is needed to offer tax deductibility. If tax deductibility could be offered without the need for the separate trust this would greatly ease the administration and compliance burden for community foundations.]

1. What is an appropriate minimum distribution rate for public ancillary funds and why?

The purpose and legal structure of community foundations, which include a public ancillary fund within them, affect the appropriate distribution rate. Where a public ancillary fund is part of a community foundation there is often a long term strategy of building a fund which will benefit that community well into the future. Community foundations aim to provide a community with human and financial capital to enable the community to respond to community needs as they arise.

They are not only involved in grant-making but are involved in running projects that build and support their community. There is already a requirement on Community Foundations that they distribute 80% of their income in any one year and whilst regular grant-making is encouraged, this places a heavy

requirement on the volunteer organisation to keep the capital growing every year. It also makes it difficult for the trustees to ensure that the funds are granted wisely noting any requests from the donors and the scarcity of “doing” or item 1 DGR’s in rural and smaller communities. Many Community Foundations are still trying to grow their funds in order to provide grants as well as maintaining the good running of the organisation and many rely very heavily on volunteer staffing. The ability to grow funds allows for supporting and building the community in hard times when a community may require increased support.

Donors to Community Foundations give on the understanding that their donation will be invested in perpetuity and this is a frequent marketing tool used to attract donations. Changes to this regulation would require major changes to the philosophy of community foundations and their marketing material and websites. It will harm the viability of these valuable community organisations and is likely to result in money going out of rural communities due to the lack of DGRs located and operating specifically in that community.

2. Are there any issues the Government needs to consider in implementing the requirement to ensure regular valuations.

Community Foundations, many of whom are companies limited by guarantee, are already required to report annually to ASIC and depending on their asset base must be audited annually. Imposing further valuation requirements on these community foundations will erode the benefit that can be returned to the community because of higher running costs and more work for the volunteer staff in the duplication of reporting requirements. It is a feature of community foundations to be able to support their community in difficult economic times, where there are areas of need. Legislating to tie the distribution requirements further to valuations, would be a duplication of accounting and would be limiting to the community benefit which community foundations provide. The fact that many community foundations are active companies, as well as acting as trustee of a public ancillary fund, makes their structure very different from Private Ancillary Funds.

3. Are the valuation rules that apply to private ancillary funds also appropriate for public ancillary funds?

Community Foundations aim to be a perpetual community asset thanks to the creation of an endowment that can create income each year for distribution to eligible local community projects. This has the potential to be quickly eroded if the new regulations applying to Private Ancillary Funds are applied to Community Foundations and they have no opportunity to address the issue of value over years.

Where grant rounds are based on earnings for the year, these valuation rules could cause difficulties for community foundations. The calculations would be based on the previous year’s balance and the grant amount set and advertised at a later date when the financial situation may be different.

4. Are there any issues with requiring public ancillary funds to lodge a return

Community foundations are accountable to the public and need to be, to engage with the community and receive donations.

Many public ancillary funds have corporate trustees, which are usually public companies limited by guarantee. These companies are required to comply with and report under the Corporations Act 2001. For example, most community foundations already lodge annual returns with ASIC. Community foundations understand their public accountability obligation to their community, donors and the general public. Reporting to the ATO should not add greatly to the burden of reporting already undertaken by public ancillary funds that already report to ASIC. Those community foundations which hold some of their investments in shares, already have a requirement to report franking credits to the ATO. And those registered for fundraising have to keep records and may have to report to State departments under fundraising legislation.

Some difficulties could arise in complicated and varied reporting regulations, but if requirements were uniform and the same information could be used to satisfy all reporting needs, both federal and state, ACP sees this as demonstrating open governance. Care should be taken to protect the identity of those supporters who would wish their contributions to be confidential.

5. Are there any issues with imposing greater disclosure requirements on public ancillary funds? What information should remain confidential and what information should be disclosed and why?

Community foundations receive donations from a great many sources, both private individuals and businesses and through fundraising opportunities. Community foundations also receive bequests and receipts from fundraising events. Listing all these individual donors would be a very time consuming exercise and often not possible where people have not requested a receipt or the amounts are less than \$2. It is possible that this disclosure could take the form of categories of funding and use information presented in other reports. Some donors wish to remain anonymous within their community. Privacy regulations require us to honour this request. Not doing so would jeopardize future donations and cause loss of faith with the community foundation. Some funds have been promised in a perpetual manner, such as regular payments over a period of time and such arrangements would be seriously altered if this were to become the legislation.

ACP is proud to hold the license in Australia for the Vital Signs Project, an initiative of the Toronto Foundation. This programme allows participating community foundations to assess and document the “well being” of their communities and highlights the needs and successes of communities. This programme has provided a sound basis for targeting grant rounds to needs and assessing the effectiveness of grants and support offered by community foundations. It is anticipated that the

findings of these studies will be published in participating communities, thus giving an indication of the effectiveness of grants and support in the community.

6. Is the administrative penalty regime applying to Private Ancillary Funds suitable for public ancillary funds?

It must be recognized that most people managing and directing public ancillary funds are doing so in a pro-bono voluntary capacity and although an earnest attempt is made to follow good corporate governance and compliance regulations, there may be some errors which will occur largely as a result of oversight or misunderstanding. There is a requirement that those holding directorships of companies must be responsible people of good standing. There may be some situations where training and instruction would be of great value and ACP would favour more input and government assistance with providing training opportunities to company directors and people of authority within the foundation movement, rather than any punitive measures.

ACP is ideally placed to disseminate information to its members and would welcome the opportunity to provide more training to the management teams of community foundations if there were funding to support this. We have been actively seeking meetings with government to facilitate learning and dissemination of information and training.

7. Are there any difficulties in requiring public ancillary funds to have a corporate trustee?

Many Community Foundations are structured as companies limited by guarantee and are already governed by a corporate trustee. In some smaller communities the burden of responsibility may fall on the same few people who fulfill the requirements as a “fit and proper responsible person”

8. Are there any issues with requiring public ancillary funds to lodge an income tax return?

This question has been partly addressed in our response to question 4.

Many community foundations are already reporting annually to ASIC and some also to the ATO for franking credits. There are also some State regulations requiring reporting in some States. Some States require reports on fundraising endeavours. The Government has previously expressed a desire to “lower the burden” on organisations and we believe that the reporting process needs to be streamlined perhaps in such a way that the same report will satisfy all needs.

9. What fit and proper person requirements should be imposed on trustees of public ancillary funds?

As previously stated, many Community Foundations are registered companies limited by guarantee and with corporate trustees. As such their directors are required to comply with corporation law. Trustees should meet the requirements of directors under the Corporations Act and the requirements of the Trustee Act in their state or territory. As is now required, a majority of the Board should be Responsible Persons as defined by the ATO.

10. What transitional arrangements are required for existing public ancillary funds to conform to the new arrangements?

There would need to be a register of all public ancillary funds to ensure compliance and understanding. Care would need to be exercised to avoid duplication of requirements thus adding to the burden of compliance for many volunteers who hold positions of responsibility in these structures. Any changes should be introduced in a timely fashion, having regard for the volunteer status of many of those involved.

Training and education would be necessary to ensure understanding of the changes to processes and to avoid non-compliance. ACP sees itself to be in a position, with adequate assistance and funding from government, to assist in this training programme.

Sue Charlton.

Chairman - Australian Community Philanthropy.