

17 June 2009



Contribution of the Not for Profit Sector Inquiry  
Productivity Commission  
GPO Box 1428  
CANBERRA ACT 2601

By email: [nfp@pc.gov.au](mailto:nfp@pc.gov.au)

Dear Sir/Madam

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## Productivity Commission Issues Paper – *Contribution of the Not for Profit Sector*

CPA Australia is one of the world's largest accounting bodies with more than 122,000 finance, accounting and business advisers working in 100 countries. Our objective is to make CPA Australia the accountancy designation for strategic business leaders. We are committed to working with the Productivity Commission to ensure its recommendations regarding the not for profit sector will help governments make better policies. We have been an active contributor to public policy on a range of fronts including the not for profit sector for a number of years (see the Appendix for details of some of CPA Australia's contributions to the development of not for profit public policy).

In this regard, CPA Australia welcomes the opportunity to contribute to the Productivity Commission Inquiry *Contribution of the Not for Profit Sector*. We think it important that the final Inquiry Report provide sufficient specificity in detail and direction to Government for it to implement legislative change. Accordingly, we think it important that the Commission consult widely on this issue.

CPA Australia's submission has been developed on behalf of the organisation with member input. Many CPA Australia members are involved in the not-for-profit sector in an honorary form – often as a director, a treasurer or auditor. We know that other CPA Australia members are involved with the not-for-profit sector in a paid capacity. Further, CPA Australia is itself a not-for-profit organisation (a company limited by guarantee subject to the Corporations Act). Consequently, we do have our own understanding of the way in which the Corporations Act applies to not-for-profit entities. The submission provides comments and recommendations on some of the inquiry's key areas of study – removing impediments to the effective operation of not-for-profit entities; improvements in the delivery and outcomes of government funded services; and the taxation system.

### **1. Removing impediments to the effective operation of not-for-profit entities**

#### **Recommendation 1.1**

CPA Australia recommends the Australian Government explore whether or not the public interest would be best served by a single Commonwealth statutory regime for all unincorporated associations, incorporated associations and companies limited by guarantee.

CPA Australia considers the current fragmented approach to regulation of not-for-profit entities the most significant impediment to their effective operation. Currently, there are many unincorporated not-for-profit entities. Further, the laws applying to incorporated not-for-profit entities differ depending on their place of incorporation. CPA Australia considers that the current approach is not likely to be in the public interest. In various forums, we have encouraged the Australian Government to explore whether or not the public interest would be best served by a single Commonwealth statutory regime for all unincorporated associations, incorporated associations and companies limited by guarantee.<sup>1</sup>

<sup>1</sup> Failing a single piece of Commonwealth legislation, we think the same outcome can be achieved through uniform legislation enacted by the parliaments of the Commonwealth, the states and territories.

**Recommendation 1.2**

CPA Australia recommends the resultant Commonwealth legislation require statutory reporting obligations for all not-for-profit entities.

**Recommendation 1.3**

CPA Australia recommends the Commonwealth legislation be explicit that not all not-for-profit entities have the same set of financial reporting requirements and assurance requirements.

CPA Australia is of the view that all not-for-profit entities should have a statutory reporting obligation, regardless of size, for reasons of significant public accountability.<sup>2</sup> Our reasons include the good corporate governance that comes from the imposition of statutory reporting obligations and the exemption from tax enjoyed by many not-for-profit entities should carry with it an obligation to report. We think the single Commonwealth statutory regime should make explicit, the reporting obligation. However, we do not think the consequence of a single Commonwealth statutory regime is to require each not-for-profit entity to be subject to the same set of financial reporting requirements and assurance requirements

**Recommendation 1.4**

CPA Australia recommends that for the purpose of financial reporting requirements the Commonwealth legislation differentiate between large and small not-for-profit entities.

CPA Australia's policy position is that the law should enable different reporting requirements, financial reporting standards and assurance requirements for not-for-profit entities based on the significance of their accountability to the public. We think that the economic size of the entity a good proxy for significant public accountability. We suggest an annual gross turnover test of \$500,000 or more of revenue as the appropriate definition of a large entity (with all other entities small). Some commentators have suggested a lower revenue figure, for example, \$100,000 or \$200,000. We believe the appropriate figure will be that determined through preliminary field testing most likely by Government as part of the regulatory impact phase. Whatever the threshold selected, we believe it should be subject to a regular review. Indexation of thresholds may be appropriate.

**Recommendation 1.5**

CPA Australia recommends that the Commonwealth legislation prescribe that small not-for-profit entities prepare an Income and Expenditure Statement in summary form, a Balance Sheet and a summary Statement of Receipts and Payments accompanied by a summary governance statement. The reporting required of large not-for-profit entities would be that required currently of public companies limited by guarantee.

CPA Australia thinks that the Commonwealth legislation should prescribe that small entities prepare an Income and Expenditure Statement in summary form, a Balance Sheet and a summary Statement of Receipts and Payments. CPA Australia thinks that the financial statement should be prepared in accordance with the financial reporting standards of the Australian Accounting Standards Board (AASB). Therefore, we think the AASB should be encouraged to develop a set of financial reporting standards relevant to small not-for-profit entities and a different set for large entities. The financial statements would be accompanied by a summary governance statement. The reporting required of large entities would be that currently required of public companies limited by guarantee.

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<sup>2</sup> Some commentators note the importance of not-for-profit entities to the Australian economy and the often important social role they fulfil. CPA Australia agrees. We think the public may have a significant interest in the activities of these entities, including financial activities, as do the members of membership entities.

**Recommendation 1.6**

CPA Australia recommends that the Commonwealth legislation require the financial report of a small not-for-profit entity to be accompanied by a review report (which will allow the auditor to express a limited assurance opinion in the negative) in place of an auditor's report. Where an entity is very small, the Commonwealth legislation should allow a declaration by management and those charged with governance about the entity's governance structures and internal controls in place of external assurance.

We think the legislation should contain new assurance requirements. CPA Australia has been told by our members that the cost of preparing an audited financial statement for a company limited by guarantee with revenue less than \$500,000 is in the order of \$3,000. We suggest that the assurance requirements pertaining to those entities defined as small be a review engagement, rather than an audit. Additionally, where an entity is very small with revenue of less than, say \$100,000, a declaration by management and those charged with governance about the entity's governance structures and internal controls should be deemed adequate to discharge reporting responsibilities. CPA Australia believes these changes would achieve a better cost: benefit outcome.

**2. Improvements in the delivery and outcomes of government funded services****Recommendation 2.1**

CPA Australia recommends that the governments of the Commonwealth, states and territories and local government agree that the acquittal requirements of not-for-profit entities align with their statutory reporting obligations (as per our recommendations above).

CPA Australia is aware that there are occasions when Government grantors have required acquittal reporting by not-for-profit grantee entities that is excessive when compared to their statutory reporting requirements. The additional costs imposed by acquittal reporting are often significant. We do not think this a good outcome as an increasing portion of the grant is spent on the acquittal process and not for the purpose of the grant. We think it important that the acquittal process align with the statutory reporting obligations (as per our recommendation above).

**3. Taxation system****Recommendation 3.1**

CPA Australia recommends that the Australian Government address the complexity in the current FBT exemptions for relevant charities via a major rewrite of the current FBT legislation.

CPA Australia broadly supports the current income tax exemptions available for charities, Public Benevolent Institutions and other relevant not for profit organisations and the GST concessions but notes that there appear to be scope for some reforms in this area such as the FBT area and in respect to the treatment of donations.

The current FBT exemptions appear to be overly complex and generate high compliance costs, which may be passed on to the intended beneficiaries in some cases. It may be more efficient, therefore, to replace the current exemption with direct financial assistance to the relevant bodies. Alternatively, if fringe benefits were to be taxed in the hands of recipients then this issue may need to be reviewed further.

It is not entirely clear that tax system complexity would be further reduced by replacing deductible donations with matched government funding arrangements for existing Deductible Gift Recipients, as there may also be some additional complexity for these bodies associated with the alternative option.

If you require further information on any of our views, please contact Dr Mark Shying, Senior Policy Adviser at CPA Australia on (03) 9606 3903 or via email [Mark.Shying@cpaaustralia.com.au](mailto:Mark.Shying@cpaaustralia.com.au).

Yours sincerely



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Chief Executive Officer

cc: M. Shying

**Appendix**  
**Selected contributions to the development of not for profit public policy**

1. Submission and evidence to the Standing Committee on Economics “Disclosure Regimes for Charities and Not-for-profit Organisations” [https://www.cpaaustralia.com.au/cps/rde/xchg/SID-3F57FECB-6AAAAF9D/cpa/hs.xsl/14131\\_30620\\_ENA\\_HTML.htm](https://www.cpaaustralia.com.au/cps/rde/xchg/SID-3F57FECB-6AAAAF9D/cpa/hs.xsl/14131_30620_ENA_HTML.htm).
2. Submission to the “Australian Summit 2020” [https://www.cpaaustralia.com.au/cps/rde/xchg/SID-3F57FECB-DA1EDD74/cpa/hs.xsl/14131\\_28715\\_ENA\\_HTML.htm](https://www.cpaaustralia.com.au/cps/rde/xchg/SID-3F57FECB-DA1EDD74/cpa/hs.xsl/14131_28715_ENA_HTML.htm).
3. Submission to the “Pre-budget 2009-10” [https://www.cpaaustralia.com.au/cps/rde/xchg/SID-3F57FECB-DA1EDD74/cpa/hs.xsl/14131\\_31335\\_ENA\\_HTML.htm](https://www.cpaaustralia.com.au/cps/rde/xchg/SID-3F57FECB-DA1EDD74/cpa/hs.xsl/14131_31335_ENA_HTML.htm).
4. Submission to the “Corporate and Financial Services Regulation Review” [https://www.cpaaustralia.com.au/cps/rde/xbcr/SID-3F57FECA-B085F8F5/cpa/financial\\_service\\_regulation.pdf](https://www.cpaaustralia.com.au/cps/rde/xbcr/SID-3F57FECA-B085F8F5/cpa/financial_service_regulation.pdf)
5. Submission to the Treasury Discussion Paper “Financial reporting by unlisted public companies” [https://www.cpaaustralia.com.au/cps/rde/xchg/SID-3F57FECA-B085F8F5/cpa/hs.xsl/14131\\_23992\\_ENA\\_HTML.htm](https://www.cpaaustralia.com.au/cps/rde/xchg/SID-3F57FECA-B085F8F5/cpa/hs.xsl/14131_23992_ENA_HTML.htm).