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## **Response to the Productivity Commission Review Draft Report “Contribution of the Not-for-Profit Sector”**

Philanthropy Australia would like to commend the Productivity Commission on this important work and the effort that has been made to understand and articulate the complexity, role and contribution of the not-for-profit sector, together with the recommendations to enhance the efficiency and effectiveness of the sector for the community.

In May 2009 Philanthropy Australia made a formal submission to the Productivity Commission’s Review “Contribution of the Not-for-Profit Sector” providing information on the scope and role of the philanthropic sector.

This further submission is in response to the Draft Research Report released on 14 October 2009.

### **Background**

In response to a specific request from Mr Fitzgerald, Philanthropy Australia made a formal submission in May 2009, providing an overview of the philanthropic sector and included the following summary and recommendations:

#### Summary

- Philanthropy is more than money – it includes the planned and structured giving of time, information, goods and services, voice and influence to improve the wellbeing of humanity and the community.
- Philanthropy is a vital and distinctive part of Not-For-Profit (NFP) Sector
- Philanthropy has a unique role in a democratic society
- Innovative structures such as PAFs play a critical role in building a culture of philanthropy in Australia, not only today but for future generations
- The majority of those involved in the philanthropic sector also become actively engaged in other parts of the Not-For-Profit (NFP) Sector
- Comparisons with other countries reveal that there is the opportunity to encourage an even greater contribution to broader community by building and reinforcing a culture of philanthropy in Australia

#### Recommendations

- That philanthropy be both considered separately and in conjunction with the Not-For-Profit (NFP) sector
- That the opportunity for philanthropy to make an even greater contribution to the community be recognised and encouraged
- That the Productivity Commission work with Philanthropic Sector to identify initiatives to encourage the building of a culture of philanthropy for the greater good of the community



## **Response to the Draft Research Report**

Philanthropy Australia would like to commend the Productivity Commission on this important work and the general thrust of the recommendations.

Philanthropy Australia reiterates its support for the work of the Productivity Commission and is happy to work with the Productivity Commission and the Australian Government on further ideas and implementation of these recommendations.

The following comments by Philanthropy Australia are made in a general capacity, but are in particular reference to Chapter 7 on Sector Development and initiatives to encourage philanthropy and giving.

Philanthropy Australia is keen to ensure that the Productivity Commission recognises the special role of philanthropy as a separate, specific and key segment of the Not-for-Profit (NFP) sector.

### **Philanthropy is more than money**

Philanthropy Australia has defined “philanthropy” as the planned and structured giving of money, time, information, goods and services, voice and influence to improve the wellbeing of humanity and the community.

As a result of our Member consultations in 2007 we know that many trustees feel that the explicit articulation of ‘voice and influence’ in our definition of philanthropy is a key difference between giving a donation and philanthropy.

However it has been the experience and knowledge gained through establishment of Prescribed Private Funds, now known as Private Ancillary Funds (PAFs), that enables us demonstrate that the immense power of philanthropy comes from more than money. As the vast majority of those setting up PAFs are living donors, who are making a substantial financial contribution to the community for the long term, they bring their time, skills, intellectual rigour, focus and their voice and influence to their giving. In doing so, they also encourage their families, their friends and their peers to become involved, building a culture of societal engagement and philanthropy in Australia.

The vast majority of those involved in the philanthropic sector also become actively engaged in other parts of the NFP Sector. The ability of NFP organisations to tap into skills and knowledge of these living donors, many of whom are successful business people, is invaluable. In many cases a NFP could not ‘buy’ the combined skills that a group of philanthropists donate, even if they could pay for them. So too the personal leverage and influence that passionate and concerned philanthropists use to bring societal issues to public prominence and resolution is incalculable. Indeed in many cases, philanthropic support brings together around the one table to support a common good, those who in the normal course of business are competitors. It is when all resources are utilized that society benefits.

### **Initiatives to encourage philanthropy and giving**

The philanthropic sector is a big supporter of social innovation. New ideas and different approaches lead to the formation of innovative organisations which drive social innovation. Without the short-term



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Australia

priorities of the ballot box or shareholders, philanthropy is in a position to support social entrepreneurs to develop new ideas; to take risks for long term community benefits. This is an important aspect of philanthropy and provides a dynamic and creative force for change. This is particularly so for living donors who need to be encouraged to donate.

o Maintaining donation deductibility at marginal tax rates

Philanthropy Australia is very concerned that a change in the current gift deductibility arrangements at marginal tax rates, to a flat rate at a level lower than the highest marginal tax rate, would create a disincentive to philanthropic giving. This would result in substantially lower levels of donations from high income earners and reduce the level of donations to many charities and philanthropic causes. This is particularly critical at a time when there will be less government funds available for the Not for Profit sector.

Importance of maintaining donation deductibility at marginal tax rates for the High Net Worth (HNW) donor is critical. Analysis of the Australian Tax Office statistics on tax-deductible donations made by Australians in their individual income tax returns, undertaken by the Australian Centre for Philanthropy and Nonprofit Studies at Queensland University of Technology, reveals:

“The more one earns, the more one claims as a tax-deductible donation. Whilst the average tax-deductible donation was \$400.01 in 2007, donating taxpayers with a taxable income over \$1million per year claimed an average of \$48,548.66 (previous year was \$47,245.68) in tax deductible donations.”

*Tax Deductible Giving in 2006-2007, CPNS Current Issues Information Sheet 2009/01*

Further, analysis of tax deductible gifts by postcode shows a clear link between postcodes which one would expect to contain significant numbers of wealthy taxpayers, and both the highest total gifts claimed and the highest average gifts claimed by taxpayers.

The HNW donor is far more sensitive to deductibility at marginal rates than the lower income donor. Any change to deductibility at a flat rate lower than the top marginal rate would have a significant negative impact on large donations and philanthropic giving in Australia.

We believe that in adopting the concept of “Treasury efficiency” for assessing the tax deductions the Commission is using an appropriate framework. However, without taking into consideration the wider benefits of philanthropy including time, goods and services, skills, voice and influence, as discussed in the above section ‘Philanthropy is more than money’, together with an appropriate timeframe (which is certainly not 1 year), this could lead to erroneous conclusions.

o Simplify DGR and TCC status

Most people outside the NFP sector have a lack of understanding of the concept of charitable purposes and charity law. There is often a big disconnect between what the community expects their donations (to DGR organisations) can fund, and what meets charitable purposes under law.

The majority of other countries, including both the UK and the USA, have only one level of endorsement for charitable status, meaning that if an organisation is endorsed as a charity it is automatically entitled to all tax concessions. Australia, on the other hand, has two separate



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*Australia*

charitable endorsements which determine different tax concessions – Deductible Gift Recipient and Tax Concession Charity. The sheer complexity of the definition of charity, charitable status, and tax status is a barrier to giving for most. It also adds considerably to the difficulty in grant-making compliance, particularly for those who are new to giving and are setting up Private Ancillary Funds.

In the “Trustee Handbook: Roles and duties of trustees of charitable trusts and foundations in Australia” David Ward highlights some of these difficulties. For example, specifically for non-ITEF Ancillary Funds and PAFs:

“.....ensuring potential grant recipients have both TCC and DGR is critical. There are some tools to assist in checking whether organisations are, or are not, eligible, but there are considerable complexities.”

The Australian Business Register, searchable on-line, indicates the entity type and tax concession status of organisations. However Ward cautions:

“If the organisation is a “Charitable Institution” it is likely (but not definitely) to be an active or “doing charity” [DGR Item1] and if it’s a “Charitable Fund” it is likely (but not definitely) to be another grantmaking foundation [DGR Item 2] to which grants cannot be made.”

The announcement as part of the PAF Guidelines that from January 2010 all Private Ancillary Funds and Public Ancillary Funds will have their “Item 2” status displayed on the ABR will be a major improvement and is most welcome.

However Philanthropy Australia would welcome any steps to simplify the complexity of the definition of charity, charitable status, and tax status including exploration of a single endorsement for charitable status.

o Structures to enable philanthropic giving in non-charitable areas

Some sectors of the not-for-profit sector which provide public goods and public benefit cannot attract philanthropic support because they do not qualify under the strict definition of “charitable purposes” in Australia, despite their importance to public policy and social objectives to benefit the community as a whole.

For example, currently a lack of tax structures inhibits philanthropic giving to (disadvantaged) public schools. In response, one type of model or mechanism that could be considered in relation to disadvantaged public schools is that of a specially listed DGR organisation that can give to non-DGR eligible NFPs.

The success of the Foundation for Rural and Regional Renewal (FRRR) as an efficient, well governed intermediary with specialist knowledge, could be used as a model for other sectors or areas of need where DGR status is difficult. The Australian Sports Foundation and the Australian Business Arts Foundation Cultural Gift Funds are run on similar lines.

*Foundation for Rural & Regional Renewal*

*FRRR works by attracting support (cash and in kind) from businesses and other trusts and foundations, private individuals and communities. These donations are then distributed through a number of programs as grants for the benefit of rural and regional Australia.*



PHILANTHROPY  
Australia

*Communities and projects needing support send in written applications to FRRR. These are then assessed. The FRRR board then approves projects, according to available resources and FRRR staff distribute grants accordingly. At the completion of each project, recipients are required to provide a project report.*

*The Australia Cultural Fund (ACF) is AbaF's arts donation service. Donors can make tax deductible donations to the Fund, supporting individual artists. Arts projects include visual and performing artists, filmmakers, writers, composers, and small arts companies. Donations have been used to support education, tours, exhibitions, publications and performances.*

*\* Family members of recipients cannot donate through AbaF and receive a tax deduction.*

*The Australian Sports Foundation (ASF) can assist Australian non-profit, incorporated and other eligible organisations such as the following with sport related projects:*

- *sporting clubs*
- *sporting organisations (regional, state and national)*
- *schools*
- *councils and*
- *community groups*

*The ASF can also offer a tax advantage to individuals, businesses and philanthropic donors as they have DGR status.*

○ Enhancing mechanisms for donating

Philanthropy Australia recommends that the Productivity Commission consider how philanthropic donations of gifts other than money for community benefit, such as land, can be increased through mechanisms like the Cultural Gifts program.

○ Donations for Disaster Relief

The challenge of matching the generous public donations with the needs of affected communities in the aftermath of the Victorian Bushfires has highlighted the limitations of the concept of 'public benefit' and necessitous circumstances funds. While the Victorian Bushfire Recovery Fund is able to support individuals in need, much of the urgent rebuilding of the community infrastructure cannot be undertaken with the public donations to the DGR structure due to the legal restrictions of the structure used. In future, when Governments announce a Disaster Relief Fund with DGR status to attract public donations, perhaps they should also consider a Disaster Relief Fund which does not have DGR status and the associated restrictions, and is therefore able to assist small business and rebuild vital community infrastructure.

**Commission regular reports on Giving in Australia**

Statistical data on giving in Australia is difficult to obtain and is not comprehensive as surveys are carried out only intermittently by the Australian Bureau of Statistics and other research organisations.

The "Giving Australia" Report, commissioned by the former Department of Family and Community Services on behalf of the (now-disbanded) Prime Minister's Community Business Partnership, was published in October 2005 and was the last major survey on giving conducted in Australia.



PHILANTHROPY  
*Australia*

This Report comprised a national Individual and Household Survey, on individual and household giving and volunteering; a Survey of Business, designed to collect information on donations, sponsorship and community business projects; and a Survey of Nonprofit Organisations and Fundraisers to assess the fundraising and development capacity of nonprofit organisations, as well as the resources and supports available and their uptake.

In order to assess the success or otherwise of initiatives to encourage philanthropy in Australia, Philanthropy Australia recommends that the Government commission another “Giving Australia” Report and commit to further “Giving Australia” Reports every three (3) years.

### **Governance, Transparency and Evaluation**

Philanthropy Australia supports the Productivity Commission’s recommendations for greater governance, transparency and evaluation.

o Improving comparability and usefulness of information collected

Philanthropy Australia supports the Productivity Commission’s emphasis on minimising costs, maximising the value of data collected, and the principle “report once, use often”.

In particular, Philanthropy Australia endorses the Productivity Commission’s Draft Recommendation 5.3:

To minimise compliance costs and maximise the value of data collected Australian Governments should agree to implement a reform agenda for reporting and evaluation requirements for the not-for-profit organisations involved in the delivery of government funded services. This should:

- o Commit to basing reporting and evaluation requirements in service delivery contracts on a common measurement framework (appropriately adapted to the specific circumstances of service delivery)
- o Require expenditure (input) measures to be based on the Standard Chart of Accounts
- o Ensure that information generated through performance evaluations are returned to service providers to enable appropriate learning to take place and for organisations to benchmark their performance
- o Embody, where practicable, the principle of ‘report once, use often’.

o Improving evidence-based practice through better evaluation

Philanthropy Australia supports the Productivity Commission’s emphasis on improving evidence-based practice through better evaluation.

In particular, Philanthropy Australia endorses the Productivity Commission’s Draft Recommendation 5.4:

The Australian Government should provide funding for the establishment of a Centre for Community Service Effectiveness to promote ‘best practice’ approaches to evaluation, with an initial focus on evaluation of government funded community services. Over time, funding could



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also be sought from state/territory governments, business and from within the sector. Among its roles, the Centre should provide:

- A publicly available portal containing evaluations and related information provided by not-for-profit organisations and government agencies
- Guidance for undertaking impact evaluations
- 'Meta' analyses of evaluation results.

### **Impact of FBT concessions for NFP organisations**

Philanthropy Australia is keen to highlight that any changes to the Fringe Benefits Tax concessions to NFP organisations should take into consideration the impact of such changes on NFP organisations and their ability to attract and retain quality staff. If changes are made to the current system of Fringe Benefits Tax Concessions, Philanthropy Australia believes that there should be an appropriate transition strategy in place.

## RECOMMENDATIONS

Philanthropy Australia is happy to work with the Productivity Commission and the Australian Government on further ideas and implementation of the recommendations of the report on the “Contribution of the Not-for-Profit Sector”.

In addition, Philanthropy Australia makes the following Recommendations:

### **Philanthropy is more than money**

That the Productivity Commission:

- Recognise that philanthropy is more than money – it includes the planned and structured giving of time, information, goods and services, voice and influence to improve the wellbeing of humanity and the community.
- Recognise that philanthropy has a unique role in a democratic society
- Recognise the importance of building a culture of philanthropy in Australia for social cohesion and in support of robust democratic society
- Recognise that comparisons with other countries reveal that there is the opportunity to encourage an even greater contribution to wider community by building and reinforcing a culture of philanthropy in Australia
- Encourage the development of further innovative structures, such as PAFs, which play a critical role in building a culture of philanthropy in Australia, not only today but for future generations

### **Initiatives to encourage philanthropy and giving**

That the Productivity Commission:

- Reiterates the importance of maintaining donation deductibility at marginal tax rates for the HNW donor to encourage the growth of philanthropy in Australia.
- Highlights the complexity of the definition of charity and charitable status, as barriers to giving and as adding to the difficulty in compliance issues; and explores steps to simplify this complexity including exploration of a single endorsement for charitable status.
- In relation to giving to non-charitable areas that the Productivity Commission considers mechanisms, such as a specially listed DGR organisation that can give to non-DGR organisations, to encourage financial donations to, for example, disadvantaged public schools to support policy and social objectives to benefit the community as a whole.
- That the Productivity Commission consider how philanthropic donations of gifts other than money for community benefit, such as land, can be increased through mechanisms like the Cultural Gifts program.
- In relation to Disaster Relief that the Productivity Commission considers whether Governments should also announce a Disaster Relief Fund which does not have DGR status and the associated restrictions, and is therefore able to assist small business and rebuild vital community infrastructure, in addition to a Disaster Relief Fund with DGR status to attract public donations.





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### **Commission regular reports on Giving in Australia**

- That the Government commission another “Giving Australia” Report and commit to further “Giving Australia” Reports every three (3) years.

### **Governance, Transparency and Evaluation**

- Philanthropy Australia supports the Productivity Commission’s recommendations for greater Governance, Transparency and Evaluation in particular Draft Recommendation 5.3 and 5.4.

### **Impact of FBT concessions for NFP organisations**

- That the Productivity Commission reinforce to the Australia’s Future Tax Review (Henry Tax Review) that any changes to the Fringe Benefits Tax, take into consideration the impact of such changes to NFPs and their ability to attract and retain quality staff, and ensure that if changes are made there is an appropriate transition strategy.

Philanthropy Australia  
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