



**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
2. Who do the responsible individuals of NFPs need to consider when exercising their duties? Donors? Beneficiaries? The public? The entity, or mission and purpose of the entity
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 respond to the *Exposure Draft of legislation to establish the Australian Charities and Not-for-profits Commission (ACNC)*, and to the *Consultation Paper into governance arrangements for not-for-profit (NFP) organisations*, particularly addressing those parts of the proposals which we believe will impact on Community Foundations.

Australian Community Philanthropy (ACP) welcomes the establishment of a single body such as the Australian Charities and Not-for-profits Commission (ACNC) to monitor and control these organisations. One of the important roles of such a Commission is that it will provide a central source for registration, government reporting, complaints investigation and guidance for entities seeking it. In doing this ACP notes the differing reporting dates which will impact heavily on

Community Foundations and urges that the date for reporting should be in line with the dates required by the ATO, the 28th February in the following financial year..

Australian Community Philanthropy Responses to the Consultation questions:

1. Should it be clear in the legislation who responsible individuals must consider when exercising their duties, and to whom they owe duties to?

This is not necessary as it is covered in the constitution of Community Foundations.

2. Who do the responsible individuals of NFPs need to consider when exercising their duties? Donors? Beneficiaries? The public? The entity, or mission and purpose of the entity?

This will vary according to the entity, but in the case of Community Foundations it is stated in their constitution and governance regulations.

3. What should the duties of responsible individuals be, and what core duties should be outlined in the ACNC legislation?

ACP endorses the response of Philanthropy to this question. There must be no confusion about the definition of the term “responsible person” and in the case of Community Foundations some of whom represent small communities, having very prescriptive legal requirements may limit their ability to operate.

4. What should be the minimum standard of care required to comply with any duties? Should the standard of care be higher for paid employees than volunteers? For professionals than lay persons?

The standard of care must apply across all the Board. Most Community Foundation Boards are volunteers with very few being paid.

5. Should responsible individuals be required to hold particular qualifications or have particular experience or skills (tiered depending on size of the NFP entity or amount of funding it administers)?

A requirement for particular qualifications has the potential to make difficulties for Community Foundations. Most CF boards use a skills matrix in the formation of their boards.

6. Should these minimum standards be only applied to a portion of the responsible individuals of a registered entity?

All Community Foundations are governed by their constitutions and company law and already have strong safeguards and standards in place.

7. Are there any issues with standardising the duties required of responsible individuals across all entity structures and sectors registered with the ACNC?

We can only respond from the viewpoint of CFs which already have strong requirements.

8. Are there any other responsible individuals' obligations or considerations or other issues (for example, should there be requirements on volunteers?) that need to be covered which are specific to NFPs?

9. Are there higher risk NFP cases where a higher standard of care should be applied or where higher minimum standards should be applied?

10. Is there a preference for the core duties to be based on the Corporations Act, CATSI Act, the office holder requirements applying to incorporated associations, the requirements applying to trustees of charitable trusts, or another model?

Most Community Foundations are covered by the office holder requirements under company law and duplication of the reporting and governance will make time management difficult for what is largely a volunteer workforce. Protecting the mission of CFs is the responsibility of the directors and the Board. The outlining of broad principles is good but unnecessary reporting and compliance may increase rather than decrease the red tape in the sector.

The Constitution of organisations covers meeting requirements and board structure.

ACP is concerned at the revocation of registration proposals and sees that there should be some provision for reinstatement once the offending matters have been rectified. It is also unclear about how these decisions will be made.

Whilst welcoming the broad outline of the ACNC, we believe that there should be a lessening of duplication of reporting, not an increase and recognition should be given to the already strong constitutional requirements governing Community Foundations. We thank you for the opportunity to respond to these papers.

Sue Charlton.

Chairman

Australian Community Philanthropy.