



INNER NORTH COMMUNITY FOUNDATION

1 About Community Foundations

Community Foundations are independent charitable organisations working in a specific geographic area which, over time, aim to build up a collection of endowed funds from many donors in the community.

Community Foundations make grants and undertake community leadership, advocacy and partnership activities to address a wide variety of needs within their regions. A community foundation builds capacity within the community to address local needs and opportunities.

Community Foundations have been established in Australia since the 1920s, but have grown rapidly in number in the last 15 - 20 years. They are new mode of philanthropy, encouraging all members of the community to contribute, and to benefit.

2 About The Inner North Community Foundation

The Inner North Community Foundation was established in 2007 and covers thirty suburbs in the inner north of Melbourne across the municipalities of Moreland, Darebin and Yarra.

It was established by a not for profit training organisation and to date the key focus of granting for the Inner North Community Foundation has been Pathways to Employment.

Just over \$500,000 has been reinvested in local community organisations in the last four years. Projects and organisations which have been supported work with the most disadvantaged members of our region (which has high unemployment and pockets of high financial stress and a highly diverse population of 330,000 people). Projects have focussed on developing basic job skills and an understanding of Australian workplace culture. Participants have been new migrants and refugees, people with intellectual or physical disabilities or mental illness, long term unemployed or youth who have been in contact with the criminal justice system.

The Inner North Community Foundation operates a Charitable Fund and a Public Ancillary Fund – both of which require recipients of all grants to have charitable status. Therefore the definition of charitable purpose and charity is of immense importance to how we operate and support our local community.

3 Issues facing Community Foundations

3.1 Overview of issues

There are a number of issues facing community foundations relevant to the Definition of Charity. These are:

- (a) Lack of clarity on the meaning of charity and how to identify charitable purposes or entities.
- (b) Confusion in relation to the process of 'opting in' under State law to enable the public ancillary fund (but not the charitable company or trust) to make grants to item 1 DGRs without charitable status.

3.2 Clarity as to meaning of charity

To maximise the potential and capacity of community foundations it is essential that there is clarity as to the range of activities and the projects that can be funded or pursued directly, while operating within its charitable status.

Community foundations are in the perfect position within communities to provide advice and demonstrate best practice relevant to all not for profit community organisations. Ideally a community foundation should be able to access and understand the requirements for recognition as a charity in order to be able to assist community organisations seek further funding.

For these reasons, community foundations support a full list of charitable purposes in the proposed legislation, including:

- (a) Community capacity building - including developing the ability, skills and confidence of members of a community in ways that enable them to participate in and benefit the community, or and improves the effectiveness and level of participation in community organisations;
- (b) Community development – building a community in response to the needs of the members of the community – this may include:
 - (1) retraining, finding employment, providing work experience, skills development, business incubation in disadvantaged areas or for people who have or are likely to experience difficulty in obtaining and maintaining employment;
 - (2) providing facilities for meeting and holding events;
 - (3) preservation or restoration of the natural and built environment, including community gardens, erecting statues, providing historical information;
 - (4) providing health and community services information;
 - (5) improving community facilities and access, including community transport;
 - (6) supporting non profit community groups with open entry requirements, including clubs and interest groups, which help in reducing social isolation or promote a sense of community, in rural and regional areas.
- (c) Improving the effectiveness or providing support and benefits to charitable organisations;
- (d) Promoting volunteering, giving and involvement in the community.

3.3 Sufficient section of the public

There should be further clarification of a 'sufficient section of the public' to a section which is not numerically negligible compared with the size of that part of the community to whom the purpose would be relevant. This would ensure that charities in geographically limited or small rural communities continue to meet the public benefit requirement.

3.4 Inclusion of sport and government entities

It will be seen as a significant step to modernising the definition of charity in Australia in line with public opinion if the following two areas are included in the list of charitable purposes. These areas cause much frustration and lack of understanding within the community when community foundations are unable to provide support:

- amateur sports programs and facilities; and
- government controlled entities such state schools, hospitals, community halls/centres, public pools, art galleries, museums, libraries, etc.

Sporting clubs provide much more than sport for sport's sake, in terms of community building, reducing social isolation and providing a meeting point and facilities that are often available to other community groups.

State schools are also often the hub of a community and in disadvantaged areas can be very much in need of additional support for building or ground maintenance and development or for equipment and additional programs, counsellors, tutors, etc. The public consider education is charitable so find it hard to distinguish between non charitable State schools and private non profit schools which are charitable.

Local government often seeks to run programs and provide vital infrastructure to the community which community foundations often want to support.

Not being able to support and fund these excluded groups in all areas is confusing and frustrating to most communities and seen as being inequitable given the often vital role these institutions play in these communities.

The sporting purpose can be restricted to sports which promote health and wellbeing by involving physical or mental skill or exertion and are open to all, regardless of ability. Consistent with this would be the provision and support of recreational facilities similar to overseas and some State jurisdictions.

These issues are of particular importance in rural and regional Australia but also have relevance in disadvantaged urban Australia.

Simplification of issues relating to government entities

The issue of whether an entity is a government body or controlled by government is of material importance in determining eligibility to charitable status. But is this distinction still relevant and should it be continued in the legislative definition?

This exclusion causes confusion in the community and frustration that organisations that the community considers charitable, are in fact not charitable merely due to their connection with government (examples of this include State schools, hospitals, community halls/centres, public pools, art galleries, museums, libraries, etc). This affects these organisations' ability to receive funding from charitable foundations.

At the moment, under some State Acts, trusts are given the power to "opt in" to make grants to non-charitable entities which are DGRs. [In Victoria there is an additional requirement that the entity would be charitable but for its connection with government.]

These provisions cause considerable confusion and complexity for the boards and trustees of charitable trusts both in understanding the divergence between Commonwealth and State laws and in the complexity of the application. As a result very few community foundations have exercised this power in respect of their public ancillary funds.

There may be a further concern once the Australian Charities and Not for profit Commission (ACNC) commences its register of charities as those trusts which have opted in will not appear on the register unless they are specifically included in the proposed list of charitable purposes. Not appearing on the register could be seen as a marketing disadvantage for those trusts raising money from the public.

In addition, the charitable trusts of community foundations which are not public ancillary funds would also wish to take advantage of the State law enabling them to “opt in” but are currently unable to do so. It is confusing and complicated to try to understand why the public ancillary fund can give to non-charitable item 1 DGRs but the charitable trust can not.

In summary:

- Charitable trusts which are not private or public ancillary funds cannot make grants to government entities (including government controlled entities) for their general operations or for infrastructure;
- Charitable trusts which are not private or public ancillary funds can make grants to government entities (including government controlled entities) for charitable purposes over and above their usual operations (*Re Cain* and discussion in 279 and 280 in TR 2011/4);
- Charitable private or public ancillary funds cannot make grants to non-charitable item 1 DGRs;
- Private or public ancillary funds in States where there is State legislation which enables them to opt in by making a declaration and changing tax status from a charitable fund to an income tax exempt fund, can make grants to non-charitable item 1 DGRs, provided the trust makes the declaration and ceases to be charitable under *ITAA 97* and presumably under the proposed legislation on the definition of charity.

The complex issues created by the divergence in State and Commonwealth laws and the confusion surrounding entities ‘controlled by government’ could be simplified by

- (a) allowing a government body to be a charity;
- (b) including in the proposed list of charitable purposes:
 - (1) providing money, property or benefits to government bodies which would be charitable but for their connection with government;
 - (2) providing money, property or benefits to Item 1 DGRs which are exempt bodies even if they are not charitable.

3.5 Restrictions in the event of a disaster

While natural disasters are less common in the inner city which is the remit of the Inner North Community Foundation, reacting to natural disasters is a real and on-going concern for our fellow rural and regional community foundations. A large amount of money can be raised immediately after a disaster, without the need for a tax deduction, and this is best to be received in the charitable not tax deductible entity of the community foundation to maximise possible recipients and application.

There are two issues for community foundations which arise in the event of a disaster:

- (a) Understanding how the money can be applied for charitable purposes; and
- (b) Where the funds are from tax deductible donations to the public ancillary fund, how to distribute this money and whether in order to the respond to the needs of the

community and the expectations of the donors it is necessary to set up a separate Australian Disaster Relief Fund (ADRF).

In the context of the proposed legislation regarding the definition of charity, it would be of assistance to communities in rural and regional areas recovering from a disaster for:

- (a) the suggestion above that government bodies are included as charities; and
- (b) the issues listed in the December 2009 legislation as a consequence of the Victorian bushfires are specifically deemed as charitable.

Many (if not all in the majority of rural areas) of the community assets and infrastructure (such as community halls, community centres, sports and recreational centres, theatre halls, playgrounds) will normally be owned by the local government or owned and operated by sporting or other recreational clubs. In most cases these will not come within the definition of charitable.

Additionally the community foundation may wish to fund local state schools or health centres for additional counsellors or for other goods and services.

The affected community and the donors do not understand why charities and charitable foundations who have received money for these communities cannot then fund what the community needs and wants. These issues severely hamper the community's access to funding and also severely limit the ability of community and other foundations wishing to support disaster recovery. This creates frustration and annoys donors and supporters – the general public.

Examples of community building/development activities:

Some sample projects are described below which show the type of charitable project that a community foundation might want to fund or facilitate in their local area.

- 1 *Skate Park:* The youth of a region lack constructive activities. Many are partly or wholly unemployed, often having left school early. The community foundation wants to raise funds for a skate park, which will provide young people with a venue and an interest. It will provide them with opportunities to create new social contacts and to create some community events and competitions. Recognition for their achievements in event management and skateboarding will develop their self-esteem and possibly lead to other opportunities within the community.
- 2 *Internet Café:* The community leaders want to set up not-for-profit Internet café. The café will be operated to provide employment and training opportunities for the young people with policies to encourage turn over to maximise the opportunities for training and experience for all in need. The cafe will also act as a drop in centre for the area. Eventually the community hopes to run computer courses for all members of the community from the café.
- 3 *Opportunities Program:* A community may want to set up a program that encourages disadvantaged children to stay in school or be able to follow their dream or talent. The project will offer 'scholarships' which will fund basic provisions required to stay at school and participate fully eg for books, uniforms, equipment, stationery, excursions, breakfast, lunch and travel; or to follow their dream eg music tuition, instruments, music, transport to competitions or sporting clothes and equipment, transport to competitions, coaching.
- 4 *Festival:* A community wants to run a community festival highlighting the arts and culture of both indigenous and non indigenous people from the area. The festival will attract tourists to the area and provide many local artists opportunities to show their art and young people with opportunities to gain skills in organising an arts event and other associated activities. The festival will be educational and also bring the region together as a community. It will encourage racial acceptance and diversity.

- 5 *Women's Enterprise Program:* Some of the women who have been out of the workforce for a long time or underemployed are keen to establish small businesses based on skills they have developed such as soap making, gourmet food production, website design for community groups, organic gardening and so on. The Community Foundation is aware there are a large number of long term unemployed women and youth and believes the public benefit in supporting a time limited business incubator outweighs any private benefit to the women or youth involved. There will also be a social welfare and economic benefit in the community potentially generating a flow on effect in employment. It wants to fund a program of small grants, revolving loans, and expert mentors to support this work and a Centre where this program could be promoted and where the small business could be located (a business incubator).
- 6 *Community Leadership:* A Community Foundation has contact with many different community groups who are keen to improve their organisational and volunteer management and fundraising skills. The Board of the community foundation would like to develop and run a series of workshops around the region.
- 7 *Indigenous Arts:* A Community Foundation wants to help raise funds to support the local aboriginal community develop an Arts Precinct where indigenous artists, mainly women, can work, display and sell their products. Many of the women need start up grants for materials. A coordinator position is also required, at least until the project is self-sustaining.
- 8 *Sport for health:* The community foundation wants to support the building of a new clubhouse for the local football club. The football club provides the basis of many community events. The clubhouse plans include a gym for public use which will offer reduced rates for disadvantaged people and actively encourage community groups, particularly the elderly, to join. It will provide health and fitness education and information. The new clubhouse will also include a meeting room which will be available for a wide range of community groups and events for a modest or no rent. The community needs a fitness centre and a place for meetings and events.
- 9 *Kids for Conservation:* Local school students in a riverside and creek area want to carry out an erosion control planting program on the banks. The river and creeks are at risk of major environmental degradation if works are not undertaken. The local Conservation Association is seeking funding to work with local schools on this project.
- 10 *Seniors Community Gardens Project:* A Senior Citizens group has approached the community foundation. The group wants to expand its activities creating and maintaining gardens around areas which are accessed by the community some of which may be owned by local government. Sites such as Senior Citizens Clubs and Neighbourhood Houses have been identified. The group needs funds to purchase plants, seeds and mulching materials. Labour is voluntary.