

THIS PAGE NOT FOR PUBLISHING

87 Kearsley Rd
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Dear Sir/Madam,

(See next page for submission)

This is my personal submission to the Australian Treasury's five yearly review of the Australian Charities and Not-for-profits Commission(ACNC) . In my volunteer work with and through a number of charities I have discovered the ACNC to be a valuable resource. However, in seeing the great many unrealized potential "public interest" benefits implied possible for the Not-For-Profit (NFP) sector through application of Charities Act legislation and knowing the cost of tax concessions, I wonder if the Commission may be currently under-targeted. This submission urges Treasury to take a strategic approach to ACNC's objects by considering gaps in the current approach and a "purpose" for the NFP sector. I think it likely that a better understanding of the sector's importance within the context of Australia's total future prosperity will inevitably lead to better resourcing for some of the components of the sector as well as for the ACNC itself.

Specifically, I urge Treasury to make reforms that will enable the ACNC to :-

- Target some appreciably under-productive gaps in the NFP landscape
- Actively propel templated Value Propositions because they will encourage innovation and better governance
- Recognise the Commission's role as one of nurturing the sector as a system within a larger system (the Australian economy) and then design "lifecycle" pathways between the NFP and For-Profit sectors targeted to increased sustainable SME activity.

1. Target Under-Productive Gaps in the NFP Landscape

"Community" and Mental Health

Although the Australian Charities Act is over five years old, the small volunteer-run art gallery I work for is one of the organizations that finds itself registered with the ACNC with "Entity Subtype Charity to select subtype" as part of its registration details. Volunteer-members occasionally question this, with no discernible affect so it might seem self-serving to see this as a symptom of a greater issue. The quaint LGA-listed gallery premises were taken over by Council a few years ago once the professionally led gallery could no longer afford to pay its director. Council makes the premises available to the charity on a commercial rental basis for zero dollars rent. The gallery pays all other costs through a small membership fee and hand-to-mouth but generous sponsorships by various local interests, mostly associated with the local tourism industry. The relationship the gallery has with the Council is "geological layered" in reference to the gallery's slightly controversial birth - long before my association - as part of a new economy beach head within a traditional working class centre, and although Council did contribute packages of funding in the "professional era", after completing assumption of the real estate, the committee and the Council were never able to establish the "usual arrangement" where Council contributes funds towards ongoing service delivery.

The gallery is volunteer powered and led by a volunteer committee, including an overworked, often stressed but entirely capable chair woman, who necessarily neglects her own art practice and earning capacity to do so, through an Australian Government jobactive mutual obligation mechanism.

She has increased the gallery's performance trajectory atop previous successful efforts to ensure this tattered ear continues as the silk purse needed to nurture the small but growing arts community of this district. A band

of volunteers support her as they can, but their own child rearing and health needs often leave her to work longer hours on a regular basis, ensuring her time at the gallery looks very much like a full time equivalent role. The gallery is at risk of becoming rudderless once again when her remaining annual obligation requirements have been satisfied (c March by my unconfirmed estimate).

I know of no other current volunteer willing or capable of keeping things on an even keel in this mode and environment. In my experience a fair proportion of the volunteers are attempting to manage diagnosed mental health issues as well as child rearing roles that render their services in the gallery at high risk of regular non-performance. Most of those volunteers who would be capable of leading the gallery have already well experienced the stresses involved in attempting to hold operations together and those I've spoken to believe specific temperaments and skills are required. The duties, the membership needs and the level of volunteer risk and community potential are under-provided for by the informality of leadership by a volunteer. It may be that the chair position will be refilled should the current chair exercise her option to focus on building her own arts business in March. Or perhaps the gallery may once again close its doors for a few months to the detriment of all those who need this haven of quiet succor to regain their resilience or momentarily shutout the stresses of their lives. The volunteers will no doubt move heaven and earth to avoid it but at what cost to themselves and that proportion of vulnerable people who elect to include themselves in that effort?

According to a PwC report produced in March 2014 by collaboration between Beyond Blue and the Australian National Mental Health Commission ("The Mentally Healthy Work Place Alliance") :

"Around 45 per cent of Australians between the ages of 16 and 85 experience a mental health condition at some point in their lifetime¹. In a given 12-month period, 20 per cent of Australians will have experienced a mental health condition²."

The further findings of that report : *"Substance use conditions are most prominent in the mining, construction, accommodation and food services sectors.³"* suggest my area may even be experiencing some concentration of damage. That said I wish to assure you that the art gallery considers itself to be an important part of a solution, possibly to a greater degree than others possible, because we are lucky to number among our members, people who are quite comfortable in understanding themselves as having first-hand experience of mental illness.

¹ ABS, 2007 National Survey of Mental Health and Wellbeing: Summary of Results, Table 1, 23 October 2008, available <[http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/6AE6DA447F985FC2CA2574EA00122BD6/\\$File/43260_2007.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/6AE6DA447F985FC2CA2574EA00122BD6/$File/43260_2007.pdf)>, accessed 12 August, 2013.

² Ibid

³ Calculated from data for mental health prevalence for any 12-month mental disorder and the number of people by industry. Prevalence and population data sourced from: Monash University, Labour Market Costs of Mental Illness in Australia, 2012; ABS, 2007 National Survey of Mental Health and Wellbeing: Summary of Results, Table 2, 23 October 2008; ABS, Population by industry division and size 2011-12, Cat no: 8155.0, available: <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/8155.02011-12?OpenDocument> >, accessed 12 August 2013.

Quite recent research from Victoria suggests the extent of cost associated with mental illness is large : *“high-prevalence mental health conditions in Australia, with an estimated \$12.8 billion attributed to depression, anxiety and substance-use, in terms of related health and other societal costs each year”*⁴

Senior researcher Associate Professor Cathy Mihalopoulos, from Deakin Health Economics in the Centre for Population Health Research, said the 2017 published Deakin study estimated costs associated with the use of healthcare resources, productivity loss, income tax loss, and welfare benefits. “Our study has demonstrated that the economic burden of such disorders is in fact considerable and improved mental health support could make a big difference for individuals and society in general.”

The PwC/Mentally Healthy Work Place Alliance report of May 2014 also suggests that effective action creating mentally healthy workplaces and organisations, on average, can expect a positive return on investment (ROI) of 2.3. That is, for every dollar spent on successfully implementing an appropriate action, there is on average \$2.30 in benefits to be gained by the organization”.

In my LGA, on a ratio’d population basis this \$12.8 billion Australia wide cost of mental illness is equivalent to a \$27million local cost.

Despite that large local potential saving, I suspect the most sensible and efficient place to make an investment exploring the potential for reducing mental illness through nurturing the NFP sector is not to be found in our little regional gallery, though it would make an excellent case study⁵.

In the total national context of burgeoning mental disease, one wonders at the real potential for cost saving and other positive outcomes if some specific mental health design investments were made in these kinds of organisations. What outcomes could be achieved if these community enterprises were advised by a national body tasked to nurture opportunities to nurture people vulnerable to mental illness with special consideration for reducing high levels of stress and health costs in a district? How much of that \$12.8billion cost could be avoided across the nation?

“Grass Roots” Sports and Recreation

Australians love their sport but instead of playing it, most spend more time watching it, and putting on weight while they do it. The Australian Government National Health and Medical Research Council cites an overall total annual cost of \$56.6 billion⁶ in Australia’s total overweightness and obesity.

The Sports clubs I’ve been involved with in my area are user-pays where levies are extracted by umbrella organizations for centrally managed costs like insurance. Facilities for the bulk of clubs are poorly funded because they are centralized by virtue of television rights and gold medals. Beyond websites, insufficient

⁴ See Deakin Research <http://invenio.deakin.edu.au/high-prevalence-mental-health-disorders-cost-society-billions/> accessed 28 February 2018 referring to its own report “Cost of high prevalence mental disorders in Australia,” published “Australian and New Zealand Journal of Psychiatry.” 29 June 2017 but unfortunately not accessible to the writer.

⁵ One of our volunteers has worked with an indigenous organization creating a funding mechanism for integrating health outcomes with cultural outcomes. As part of the development, CRAG was proposed as a prototype for testing the arrangement. With no champions apparent, it has not yet occurred, and may never eventuate.

⁶ <https://www.nhmrc.gov.au/health-topics/obesity-and-overweight> (Colagiuri et al. 2010)

ongoing support filters to the grass roots clubs. I suspect the charity subtype - Health Promotion – was designed for encouraging more sporting activity at grass roots level. Unfortunately it is not happening in most areas I've seen. As small as the reporting and governing obligations are, my experience is most sports clubs are loath to take the step of nominating as a charity and therefore do not register with ACNC.

There is much undesirable complexity in navigating the gap between legal charitable fundraising and working with profit-making that doubles as community support. Most commonly in sporting associations but also in industry development, I suspect it results in some less sophisticated volunteers operating their associations unsafely as tax exempt when the issue of mutuality of income deems they should not do so. On the occasions where it is sufficiently lucrative to be perceived as a risk, the requisite tap on the shoulder usually sees a fix, but not always the most productive one.

In one case the fix necessitated formalizing joint responsibility by all committee members for adhering to the limits implied by the self assessment option for income tax exemption. This seemed preferable to committee members on account of perceived difficulties in nominating to become a charity under any of the types listed in Charities Act 2013. This option is obviously less transparent and requires yearly renewing but is materially quite similar to the operation requirements for charity legislation.

In another case, bigger voiced community members preferred to stick to the association status quo (“keeping things simple”) even though this meant in the first instance finding a new Treasurer willing to make a self assessment declaration, and then further having to also give up the organisation's ability to carry forward profit from year to year, most likely out of regard to its non-mutuality. As a result the committee eventually lost a dedicated supporter when it found it needed to veto cost recovery by the supporter's small business, ostensibly because prior approval had not been obtained, a reasoning which has been explicitly conflated with the fact that that business proprietor had earlier elected not to provide her share of the year's necessary startup capital. Such shortfalls in performance are the result of entirely legitimate solutions but to varying degrees good outcomes have been sub-optimal and less sustainable than they could have been. The fact that they occurred during a drive to develop local participation in the “gig economy” is noteworthy.

In the context of economic growth, one wonders at the total cost to Australia's continued prosperity of this lack of transition by these kinds of associations. What outcomes could have been achieved if these enterprises had been structured and advised by a national body tasked to grow this emerging economy to reduce the cost of unemployment benefits in different areas. It really is anyone's guess how that could be measured but here are the questions that should be being asked :-

- How many people could be being employed by sports and tourism event associations in less economically diverse districts if these associations were provided with more professionally implemented systems and pathways as well as specific advice directed towards greater sustainability and employment of people?
- How much of that estimated \$56.6 billion dollar cost to Australia of overweightness and obesity could be saved from Australia's federal annual budget if there were more sports clubs and recreational events available to more people because the organising enterprises operating them offered economical training

every morning, afternoon and evening of the week because they no longer depended solely on volunteers?

- What better facilities and capital efficiencies could result if professionals were specifically employed by non-government integrated entities to administer and share assets (both public and possibly even private) as well as ongoing resources in a district?
- As a result of more professional management, what proportion of those sports and event organisers would then attract enough clientele to turn a *taxable* profit?
- How much foregone tax is lost to those many, poorly devised (hopefully all small-time) unjustified income tax exemptions being taken on non-mutual sports association incomes?

One of the examples I mentioned above might suggest there is a counterproductive attitude towards charities in Australia. Usually proud of their toughness, many Australians are suspicious of being beholden to, or involved with, anything that includes the word “charity”. Some people may fear enforced inclusivity that they are still learning to cope with. However, because of the mismatch between the designations “sports association” and “health promotion” as well as the reticence of most to categorise their charities in terms of mental health it would be careless to see aversion to these kinds of charitable activity as the main determinant for lack of progress to registered charity-hood. Most people are afraid of change or just find the idea of revising their Constitutions too much hassle. There are probably other reasons that not all will make the leap but I suspect most of them would be discovered as being furchies and of no consequence if stronger *grass roots propositions were created and made attractive to those who need to do the transition work.*

With sports clubs, especially in areas with less experience of diverse economies, what needs to be considered is how this reticence affects the public interest. It might be that these no-change preferences mean that maintaining the benefits of an NFP sector across all the states is costing Australian taxpayers much more than any benefits are accruing due to any perceived regulatory “biodiversity”. It’s also likely quite valuable benefits are lost because of it.

2. Propel NFP template Value Propositions to increase innovation and good governance

The cost of lost opportunity for employing people to run clubs more professionally is not likely to prompt most committees to become charities until a few strong good news stories appear. At that point there may well be an avalanche. To ensure minimum pain when it happens, the Commission would be adding big value to the sector if it oversaw standardised systems for looking after cash in clubs, that fit with the (unfortunately underscoped) other systems being implemented by those clubs.

In my experience online systems implemented by umbrella organizations show insufficient regard for the fundamental needs and governance processes needed by grassroots administrators. The gap makes managing cashflows for employment a high risk. To assume everyone is ready to pay \$6 “tap and go” each time their little girl plays cricket is unfair to those families who need to track expenditure carefully but do not have the resources or wherewithal to use spreadsheets or phone apps (that are often not as well-integrated as they need to be).

“Club-Team-and-Person/Membership Receipts and Payments Reporting System” : Years of manual systems and workarounds in most clubs confound the governance and cashflow needs of even the most peppercorn payment for umpires or consumable-related services, let alone the needs of administration volunteers using petrol to obtain cheque signatures because some big four banks do not offer two stage online approval for EFT payments. The informal cash flows by which clubs try to operate within the informal economy are a governance nightmare. The obvious reward of a healthy bank balance at the end of year is still only enough to attract only the most dedicated volunteers who may or may not be capable of reconciling the old every-week cash systems with the one-rego-payment per year ideal that seems to be the normal implementation for umbrella organizations (who seem to fail to recognize any need to help treasurers allocate on-the-day game or account for other receipts and payments).

An ACNC funded project creating a template for implementation within every umbrella sporting organisations’ systems, would deliver incredible value to those organizations and its volunteers and would prompt even the most change-fearing committees to make the leap. Well conducted committees would certainly value a classification on expenditure transactions classified and approved under governance objects approvable via through online workflows. An ongoing dashboard with KPIs including measures of organizational sustainability might even of itself promote good governance competitiveness. If a standardized EOY function could automatically roll financial figures into existing ACNC reporting (with a workflow stage for auditors where required) it would increase committee imperative for its use.

The increase in transparency and confidence would be immediate.

Employment Framework : There are various innovative “recipes” emerging (eg contract arrangements, measured project collaborations) that are likely to be able to create new employment through services that could stave off further growth of the national obesity and/or mental illness epidemics. They would also increase opportunities to perform other charitable activities (environmental, cultural) with the added bonus of *dignity* of employment.

As these mechanisms are honed, the Commission would be an ideal organization to promote them and provide advice, templates, linkages and pathways as well as educational resources supporting productivity improvements through this strategic development of the NFP sector.

Although it will often entail design with other government departments and existing agencies, the Commission should seek to promote implementations on a district-by-district basis, establishing links through local government and existing community groups as driven by under-employment (particularly long term) figures and district health concerns.

The grass roots is where real innovation occurs because people know the opportunities in their district.

“Better LOCAL Outcomes” Design Kits : While umbrella organizations (where they exist) should be involved in recommending new employment job designs, a focus of effort should always be with grass-roots organizations in districts where there is found to be health or economic need. This is because many NFP organizations do not

have umbrella organisations and therefore are at risk of being neglected. A focus on top down priority is not only unfair, *it is also extremely likely to filter out deserving innovations:*

- Opportunities that combine less-used facilities into multi-use district based associations under the auspice of competent paid staff using standardized systems will not only reduce unproductive duplication of administration and drive stronger asset utilization (better leveraging maintenance) but also likely better empower “the gig economy” and reduce effort in local Councils. The obvious example is sports but it is not the only domain.
- Shared information templates will increase awareness of existence and availability of access;
- Strategically incentivized payment structures covering currently under-utilised sports facilities will encourage greater use, especially if formalised accounting linkages allow subsidy through linkage to outcome proxy measures for entrenched problems like obesity and mental illness.
- Access and assistance to set up social Impact Investment facilities.
- Charity/NFP auspiced collaboration structures supporting funded development of *non-revenue producing* assets supporting improved health and cultural measures.⁷

A Volunteer Value and Inspiration Campaign : I am occasionally disappointed to hear of voluntary administrators nearing burnout in organizations that see it is appropriate to pay some of their participants but for whatever reason either can’t attract or sufficiently organize needed volunteer support, or don’t offer any kind of paid stipend to administrators. It is inappropriate but occurs in some sports clubs and possibly elsewhere. I would see value in the ACNC working with Volunteers Australia fixing things like that and also creating value for volunteers as well as incentive to people to volunteer in the NFP sector (especially where paid positions do not yet exist). A media campaign once a year reminding people of the value volunteerism brings to communities might do the trick – though most volunteers would shun appearing in them.

3. Understand the System within a System : Design “lifecycle” pathways between NFP and For-Profit to increase SME activity.

Although the objects of the Act make no reference to the purpose for overseeing the NFP sector, it does propose oversight within a national regulatory framework that reflects the unique structures, funding arrangements and goals of NFP entities, *with a specific view to them having possible access to national tax concessions, benefits and exemptions, available through national law.*

If you substitute the words “set of entities that may be deemed worthy of some kind of tax sheltering” everywhere in Section 15-5 where the words “Australian Not-for-profit sector” appears, you might better understand how in having no statement of purpose, these objects do not add value to encouraging innovation in the sector, despite the fact that the section specifically calls for the Commission to support and sustain an *innovative* NFP sector.

⁷ Wonnarua Arrangement - devised by Wonnarua Nation Aboriginal Corporation.

Because tax concessions reduce public budgets, it is not an unreasonable preference that where ever it can be achieved, activities comfortably carried on in the charitable part of the NFP sector should be considered and possibly encouraged to transfer to the for-profit sector. In this framework, one could consider the NFP sector as being for the purpose of providing an incubating environment for all the special types of products and services covered under the type-classifications of the Charities Act 2013.

NFP Sector as an Incubator : In recognition of both profit and passive investment as essential elements of a sustainable Australian economy supporting the NFP sector, this incubation idea could be reflected in the ACNC's Objects through a new section *"(d) Create pathways increasing Australian sustainability including for-profit small business"*.

Lifecycle Paths (In and Out) : Transitions pitched as *lifecycle* transitions could reduce negative associations as candidates occasionally need to return to hone or adapt their as-yet unsustainable proposition in the same way adult children occasionally move back home when their first adventures in self-sufficiency don't quite work out.

Triggers: This Lifecycle philosophy suggests the ACNC could attempt to institutionalize triggers with service templates, ie defined transition-readiness assessment points, some of which assessments, would be purely financial (assuming information has been able to be collected, a much more likely status these days). Some resulting pathways might include gateway linkages to government or other NFP services offering packages of SME business education and/or subsidized consulting products.

Education : Already existing business education resources could be previewed and where appropriate incorporated into the ACNC assistance domain with self paced online learning specifically maintained according to the needs of an innovative 'incubatory' NFP eco-system. This maintenance function could be combined into the efforts of a national online or telephone ACNC help desk function.

Motivation for Continuous Improvement : The template triggers would need to include incentives for both the NFP organization's staff and the potential SME proprietor themselves. If they also included planned brand development campaigns the Commission would be able to coordinate a *positive* continuous improvement imperative for the sector. The sector already promotes continuous improvement but in driving down service costs, it's highly likely most in the sector find it difficult to resource credible R&D for more positive innovations leading to quantum leaps in either quality or productivity.

In Closing, I note in the Terms of Reference : "Some issues may be identified by the review panel that fall outside the scope of a statutory review of the ACNC legislation. The review panel should advise government of these matters and recommend whether further examination should be undertaken" .

I realize some parts of my submission would be considered out of scope and I know I have not addressed others. I submit this in the hope you will continue improving the ACNC because the work you have already accomplished has exceeded most people's expectations with very little downside that I am aware of. I hope the trajectory continues because there is still so much potential upside.

Yours Sincerely
Julianne Cripps Clark