

**Improving the Integrity of Prescribed Private Funds –  
Consultation Paper November 2008**

**Submission by The Parncutt Family Foundation  
January 2009**

Dear Sir

The Parncutt Family Foundation (“PFF”) was established in 2001, amongst the first “batch” of Prescribed Private Foundations (PPFs), with an initial sponsor donation of \$2 million.

The stimulus for its establishment was the sponsor’s wish to make a gift of \$0.5 million to an educational institution. In the year of its formation the sponsor/donor had a “windfall” income gain, enough to more than support a one off tax deductible gift of this size, but because of the introduction of Prescribed Private Funds decided to make a \$2 million deductible donation and fund the proposed \$0.5 million gift over 5 years (based on \$0.1 million, equal to 5% of corpus, each year). The Parncutt Family Foundation completed its pledged gift of \$0.5 million over 5 years and has gone on to support a range of other charities. It has now, after 8 years, distributed a total of \$1.8 million to eligible charities and has led the sponsor and his family to become increasingly involved in charitable organisations not only as donors, but also as volunteer advisors and supporters.

There is no doubt that the availability of the PPF structure in its present form has acted as a very significant catalyst to the sponsor’s family’s philanthropic giving and volunteer work. Without the availability of the PPF structure the sponsor would have made an immediate gift of \$0.5 million and most likely have reverted in subsequent years to giving at previous rates of \$10,000 to \$20,000 per year. With the PPF the sponsor’s family has now facilitated the giving of \$1.3 million more than the originally planned \$0.5 million, to a range of causes, and the corpus of the Foundation has grown to around \$3 million providing an ongoing capacity for substantial future giving.

**We firmly believe that the introduction of PPFs has had a very material impact on philanthropy in Australia, as the sponsor’s family’s experience fully demonstrates.**

One of the key attractions of the establishment of a PPF was the potential it offered the sponsor’s family, through good investment management and further gifts from the family, to build a Foundation of sufficient scale to enable it to fund meaningful multi year grants. A key aspect of this has been the accumulation plan agreed with the ATO requiring distribution of all interest and dividend income while retaining capital growth to build towards a meaningful target corpus. It is well accepted in the management of in-perpetuity endowment funds that annual distributions cannot exceed 4% to 4.5% of the market value of the corpus of the funds if the after-inflation value of the income stream paid to beneficiaries is to be at least maintained.

A key attraction of the PPF to the founder's family was its capacity to encourage an ongoing, family involvement in philanthropy and the multi-generational community. We would be very disappointed to see the proposed distribution rate of 15% introduced. This would likely result in the Parncutt Family Foundation having an immaterial corpus within 10 years; the incentive for the sponsor's children to become involved would be much reduced, along with our capacity to make longer term strategic grants.

A fixed annual distribution rate, however, does have much to offer over the current complex distribution arrangements. We believe a fixed annual distribution rate of 5% of the market value of corpus, in line with US practice, would maximise the long term positive community benefits of the PPF structure, enabling the fund trustees to make long term strategic commitments and facilitating inter-generational involvement in philanthropy.

The proposed 15% distribution rate (and even a distribution rate in the 5% to 10% range) would be likely to lead to the closing of the majority of PPFs within 10 to 15 years and would see few new PPFs formed. We are just beginning to see a broader embracing of systematic philanthropy amongst wealthier Australians, in part stimulated by the introduction of PPFs – it would be a pity to see this very important development “nipped in the bud”.

The aspect of the Discussion Paper that perhaps concerns us most is the suggestion that some PPF sponsors have breached the guidelines in ways that have provided them benefits. We regard it as a special privilege to be able to operate a private foundation (which was essentially funded, initially, approximately 50% by the donor and 50% by the community). The PPF fund is a “community” asset and as such must be managed to the highest standards of integrity and public accountability. There would be a considerable reduction in the benefits to philanthropy were the PPF structure rendered unattractive as a result of the abuses of a minority. We would support a “zero tolerance” regulatory regime that reversed past sponsor tax benefits and required immediate distribution of 100% of corpus, in circumstances where guidelines are breached for the personal benefit of sponsors.

The Parncutt Family Foundation has three individual Trustees; the founder donor, his wife and a qualified independent. This approach was adopted in preference to a corporate trustee, mainly to save the costs of forming and maintaining a separate legal entity, with a view to maximising funds available for distribution. A secondary benefit of this approach is the heightened sense of responsibility felt by each individual Trustee with each personally liable. We would argue for the retention of the option of individual Trustees on the grounds of cost and direct accountability.

While most PPF sponsors would prefer their giving to be done in private it is hard to argue that PPFs as holders of “community assets” should not be subject to an appropriate level of public accountability. All the current PPFs were established on the understanding that they were indeed “private” – a reversal of this status would be seen by many as a breach of faith by the Government and would be strongly opposed by me and my fellow Trustees and, I believe, by many other PPF Trustees. It would likely result in the wind down of some PPFs and the formation of fewer new PPFs (resulting in reduced giving over time). If the Government determines, against the strong opposition of many PPF Trustees, to publicise PPF contact details it would ease the wasted efforts of both PPF sponsors and grant applicants if the disclosed details included an indication

of whether the PPF wishes to receive submissions (and indeed has any capacity to review them) and if so, also includes the PPFs preferred areas of philanthropic interest.

In summary:

- A number of the proposals in the discussion paper would be likely to retard rather than accelerate philanthropic giving generally, as a result of
  - closure of a majority of PPFs over 10 to 15 years
  - the establishment of few new PPFs
  - the stifling of a structure that is already encouraging increased philanthropy (as in our case) and encouraging families to develop a tradition of philanthropy.
- The proposed 15% distribution rate and even rates in the range 5% to 10% would likely result in fewer PPFs and a reversal of the positive benefits already flowing from their introduction.
- An annual distribution rate of 5% would enable PPFs to maintain their after-inflation giving capacity, facilitate strategic longer term focussed philanthropy and encourage families to develop an ongoing commitment to philanthropy and the community.

**Bruce Parncutt**

Trustee

The Parncutt Family Foundation

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