

SOUTHSIDE COMMUNITY GROUP PTY LTD

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Trustee for The Southside Unit Trust

09 December 2011

RM:mw 0442/11-SJG:TAH

The Manager
Philanthropy and Exemptions Unit
Personal and Retirement Income Divisions
The Treasury
Langton Crescent
PARKES ACT 2600

By Email: NFPReform@treasury.gov.au

Re : CONSULTATION PAPER – DEFINITION OF CHARITY

The Southside Community Group is an entity that is part of the greater Southside Community and Sporting Association group. We are a Community organisation owned by an amalgam of charities as listed below:

- Mansfield State High School P & C Association
- Mansfield State School P & C Association
- Clairvaux Mackillop College P & F Association
- YMCA of Brisbane
- Queensland Blind Association Inc.
- St. Joseph's College Gregory Terrace
- Eastern Suburbs Soccer Club
- Brothers Rugby Club Inc.
- Merton East Old Boys Association Inc.
- Sunnybank Senior Rugby Club Inc.
- Sunnybank Junior Rugby Club

Our group distributes significant income to our shareholders/beneficiaries and various other local community groups.

As far as we know, this group structure is unique in Australia, and originally came together in 1974 to consolidate our community efforts and to provide long-term benefits to the wider local community. When first forming the group, many of our constituent organisations were actually struggling financially and the creation of this entity has allowed us to strengthen our programs and services to this day.

The funds now generated by the group are used, in turn, to support the many varied and worthwhile community and benevolent activities undertaken by our stakeholders including:

- Construction of major facilities such as auditoriums and gymnasiums in schools
- Provision of sporting equipment, computers and musical instruments in schools
- Building of facilities and provided services for disadvantaged children and adults
- Provision of facilities, equipment and services for the vision impaired
- Funding the establishment of a Vocational School for disengaged youth

- Assisting in providing 200,000 free breakfasts a year to children in need
- Supporting the provision of Affordable Housing
- Providing sporting facilities and equipment for the wider community
- Helping provide 15,000 Meals for homeless youth a year

In addition to the support of unitholders, the Southside group has a very broad reach and provides further annual financial and in-kind support to many other organisations and community groups:

- Mt Gravatt Bowls Club – Operational funding and construction of all-weather Bowls greens
- Mt Gravatt Australian Football Club Inc. – Field Maintenance, line marking, new car parking and new dressing rooms
- Mt Gravatt Hawks Soccer Club Inc. – Field Maintenance and line marking

Over the last 12 months alone, further additional financial support has also been provided to:

- Access Outreach Street Vans	- Leukaemia Foundation
- Asia Minor Historical Association	- Diabetes Queensland Australia
- Australian Red Cross - Sunnybank Branch	- Australian Men's Prostate Cancer Research Foundation
- Brisbane Eagles Lacrosse Club	- Beyond Blue
- Brisbane Family Daycare Scheme	- Jeans For Genes
- C&K Mt Gravatt Kindergarten	- Cancer Research (Daffodil Day)
- Club Camcorder	- Lions Xmas Appeal
- Comets Netball Club	- Premiers Disaster Relief Appeal
- Holland Park State School Chaplaincy Committee	- Christchurch Disaster Appeal
- Kyabra Street Community Gardens Group	- Qld Police Charity Ribbons
- Macgregor Netball Association	- National Heart Foundation
- Macgregor Souths Cricket Club	- Access Outreach Australia
- Moorooka Neighbourhood Watch Association	- St Bernards Outside School Hours Care
- Mott Park Kindergarten Association Inc	- St Joachim's Outside School Hours Care
- Mt Gravatt Garden Club	- Sunnybank Anglican Outside School Hours Care
- Mt Gravatt Junior AFL Club	- Sunnybank Contract Bridge Club
- Mt Gravatt Men's Shed	- Sunnybank Swimming Club
- Mt Gravatt Youth & Recreation Club Inc	- The Brisbane Orchid Society
- Older People Speak Out	- The Lower Sunnybank Hills Neighbourhood Watch
- Our Lady of Lourdes Outside School Hours Care	- The Plains Retirement Residents Committee
- Pink Allstars Netball Club Inc	- Warrigal Road State School P&C Association
- Probus Club of Holland Park Central	- Wishart North Neighbourhood Watch Association
- QEII Track Club	- Southern Suburbs Branch of Genealogical Society

As you can clearly see, the activities of the Southside Community Group has not only strengthened and improved the capabilities of the Group stakeholders, but also strengthens the local community as a whole. These programs and activities are crucial to a large proportion of the local community, with the financial assistance to all parties since 1994 totalling in excess of \$16.4 Million.

Southside Submission

Our Submission primarily focuses on consultation question 14. *“Is any further clarification required in the definition of the types of legal entity which can be used to operate a charity?”*.

As you can see Southside is quite unique in that it is a Unit Trust.

Typically the Unit Trust is used in private enterprise.

However, in the Southside case the unitholders are “charities or other not-for-profits”.

Therefore, the question is should Southside be afforded the same benefits that charities are afforded?

We believe that it should be and that as 100% of the income and capital earned by Southside is gifted to the community by way of Grant or alternatively, returned to each of its unitholders who are “charities or other not-for-profits” as listed above then it should be able to obtain the same benefits.

Certainly, Southside agrees that where earnings that are not applied to altruistic purposes accrue in a Unit Trust then they should be taxed.

However, where 100% of that income is used for altruistic purposes then Southside should be afforded the same benefits as a charity.

Alternatively, if it is not afforded the same benefits, then the status quo should be maintained.

Currently, a Trust which fully distributes its income is not taxed.

Therefore, the Trust (it only holds property it does not carry on any trading) passing 100% of its income to its unitholders.

It lodges tax returns but as there is no retained income it pays no tax. The responsibility for paying income tax falls on its unitholders.

As each of the unitholders are “charities or other not-for-profits” they are not required to lodge income tax returns or are exempt from income tax.

If there were to be changes where Southside was to be taxed because of changes triggered under this consultation paper or under the proposals set out in the Treasury’s *“better targeting of not-for-profit tax concessions”* that may destroy any benefit Southside can deliver to its community.

We believe that any changes that saw Southside being taxed could cause several issues that would be significantly detrimental to NFP groups and the sector as a whole including:

- The potential for errors and missed offsets;
- Cash flow issues; and
- Costs and resources in setting up a new entity.

Errors and Missed Offsets

Many of the smaller not-for-profit organisations simply do not have the expertise, administrative systems and resources to adequately plan for and implement such a system. The majority relies on volunteer assistance from lay persons and these positions often change relatively frequently.

There is therefore a high probability that many organizations, our unitholders, will then miss out on all or at least part of the offsets that could be rightfully claimed under the proposed models.

The overarching principle in all of these discussions should be to not hurt the NFP sector as further limiting funds and resources will restrict the benefit back to the local community. The flow on effect would then be an increasing demand for services and programs from Government.

Cash Flow Issues

It is understood that franking offsets can only be claimed at the end of the financial year. If this is confirmed, then the potential delay in receiving refunded offsets may cause considerable financial stress for many of the NFP organisations forced to comply with this system. Cash is often tight in charitable organisations, and the strength of balance sheets do not always allow for borrowings or overdrafts.

Many charities operate week to week, and any change to the flow of funds could seriously jeopardise the entire entity.

Costs and resources in setting up a new entity

Placing operations and activities in a new entity requires considerable work and adds administrative complexity to many already-stretched charities. Tracking separate financials, board structures, meeting minutes etc., adds considerable expense, is a significant opportunity cost and drains human resources away from the primary goal of benefitting the community.

It should not be necessary to create new entities or organisational structures in order to adhere to the new NFP sector reforms.

Overarching Goal

If the central purpose of the reforms is to ultimately permit continued financial support to charitable and benevolent purposes (as per the Word Investments case), then it should be in the best interests of Government to allow true NFP organisations to develop and grow in an environment of self-sustainability.

If this principle was adopted, embraced and encouraged by governments at all levels, predictable outcomes could materialize in the longer term so as to allow less dependency on all levels of government and external philanthropic funding sources.

Organisations cannot strategically plan and grow without sustainable and predictable revenue streams, and efficient ways in which to effectively manage their charitable enterprises.

If unfairly treated, NFP organisations could be penalized for their strategic endeavours in pursuing differing models of long term self-sustainability.

Conclusion

Treasury needs to be careful in not limiting the type of entity that a charity or not-for-profit enterprise can be conducted through. Any entity or structure where 100% of its income is used for altruistic purposes should receive all the same benefits as a charity.

In Southside's directors and volunteers receive no fees or other indirect benefits.

Notwithstanding, Southside's capital assets and income it has no employees.

There are no commissions, wages, etc. etc. It is charity in its purist form. 100% of its earnings go to not-for-profit, i.e. parents and friends associations, soccer clubs, the disabled, the young, sporting clubs and the like. Approximately \$40,000.00 (out of income of almost \$1,500,000.00 per annum) is spent on adminstraion.

Treasury needs to be very careful that in trying to fix what it sees to be perceived problems in terms of larger "charities", that it does not affect organisations like Southside which do so much good work in the community and are run by volunteers that they make it all too hard and the volunteers just disappear.

Please feel free to contact me personally on 0417 742 163 should you wish to clarify or discuss any aspect of this correspondence.

Yours sincerely,

Steve Grant
Director
SOUTHSIDE COMMUNITY GROUP PTY LTD