



**RESPONSE TO THE PRODUCTIVITY COMMISSION
REVIEW OF PHILANTHROPY
- DRAFT REPORT -
FEBRUARY 2024**

*Further advocacy in support of
the Case for Sporting Organisations
to access the benefits of Charitable Status*

This paper should be considered as further input and advocacy in support of the submission provided in May 2023 entitled ***'The Case for Sporting Organisations to Access Charitable Status'***.

We thank the Productivity Commission for the further opportunity to provide input into the Review of Philanthropy.

OUR ISSUE OF CONCERN:

DRAFT REPORT RECOMMENDATION: *Community Sport – continues to be an excluded activity.*

It is noted that: *The Commission is not proposing to extend DGR status to activities which are not regarded as charitable in Australia, such as community sport.* (Draft Report p 19).

Further we note that: The Commission's landing in the Draft Report (p 194) regarding the charitable status of sport drew on the recommendations of the 2001 Charities Definition Inquiry. That is, *sport for the purposes of amusement or competition should not be considered charitable, but should be considered charitable where used to further another charitable purpose.*

OUR RESPONSE:

REQUEST FOR THE EXCLUSION OF COMMUNITY SPORT TO BE RE-CONSIDERED

It is requested that the Commission reconsider the decision to exclude Sport, particularly community sport as a charitable activity and we provide the following points in support of our position.

COMMENTS IN SUPPORT OF THE REQUEST

1. Overall Contribution of Sporting Organisations has a Charitable Purpose

Sporting organisations at community level achieve a range of objectives that are inextricably linked which should be recognised as a package of benefits and not be separated out individually.

While it is true that sporting activity can provide amusement and competition for participants other important elements are provided at the same time as an integral part of the involvement.

The physical health benefits of sport and physical activity are well documented and generally agreed that it contributes to a reduction in chronic health conditions, particularly cardio-vascular disease and lessens conditions such as obesity through regular Moderate and Vigorous Physical Activity (MVPA). I refer the reader back to the original submission for further evidence if needed.

Community sport also plays a critical role in providing a welcoming, inclusive, supportive environment – to improve mental health and/or relieving social isolation.

Further – involvement in the inclusive club environment focusses the attention of potentially ‘distracted/at-risk’ individuals towards a positive use of their time and ensures they are not focussing unduly on negative pursuits of alcohol, drugs, violence and anti-social behaviours which are all drivers of crime. This is particularly so for lower socio-economic communities including indigenous communities.

We note the content of page 194/95 section entitled ‘Activities like sport should only be eligible for DGR status if further a charitable purpose.’ We contend that community sport does meet this test and indeed does ‘further a charitable purpose’.

We believe that the Commission has failed to take account of the significant changes to Australian society over the past 25 years. It also fails to recognise the broader contribution that sporting organisations make to their membership and local community.

Sporting Organisations – Harm Prevention and Health Promotion

It can be argued that the work of Community Sporting organisations meets the definition of both Health Promotion Charities and the newly created Harm Prevention category.

Community sport, particularly at the local club level, plays an essential role as a vehicle for engaging with and supporting a diverse cross-section of Australian society. This is now occurring at a time when resources available to families are under severe stress and the expectations on a diminishing number of club volunteers is growing greater every year.

The major focus of Community Sport is on the individual person – providing for their needs to achieve a positive outcome for the individual and then collectively to the Club to ensure its ongoing success and sustainability.

The Draft Report (p194) references and agrees with the 2001 *Charities Definition Inquiry* that sport did not then meet the definition. We suggest that Australian society today is very different to 2001, particularly with respect to the mental health of the population. This is particularly so with younger people and those living in regional, rural and remote locations.

The kids are not alright: differential trends in mental ill-health in Australia - Melbourne Institute Working Paper No. 03/23 - February 2023 states:

There is recent evidence from many countries that population mental health has worsened over time, even prior to the COVID-19 pandemic. In Australia, this pattern is most strikingly illustrated by the increasing rates of reported mental and behavioural disorders in the regular National Health Survey series, increasing from 9.6% of Australians aged 15 years and over in 2001 to 20.1% in 2017/18 (Australian Bureau of Statistics, 2018) and increasing even further to 21.4% in 2020/21 (Australian Bureau of Statistics, 2022). Such evidence of worsening mental health is consistent with data showing the increasing use of both psychotropics and therapeutic services within populations (Peach et al., 2022). The worsening mental health over time is also shown in measures of psychological distress, including research using large longitudinal panel surveys such as the Household, Income and Labour Dynamics in Australia (HILDA) Survey, which showed a broad increase in overall rates of psychological distress (Kessler-10 scores) in Australia from 4.8% to 7.4% between 2007 to 2017 across the 18 to 64 age-ranges.

We also believe that there are now much greater requirements of community clubs to meet contemporary expectations and legal, moral, safety, administrative and financial regulations and standards than previously. This has further added to the burden on club volunteers and impacts the ongoing existence of many local sporting organisations.

2. Auspicing is not working

Auspicing by the Australian Sports Foundation (ASF) is not working well enough for sport.

- After 35 years since the creation of the ASF less than 4% of the estimated 70,000 community sporting clubs and organisations currently access their service.
- The average level of donations channelled through the ASF over the past decade of \$50m per year is far below the potential.
- It has been extremely problematic requiring supporters to donate through a third-party instrument that they assume to be a government body which then withholds 5-6% of their donation as a commission or a tax.
- One sporting body reports that the ASF charged it \$12,000 for processing one donation.
- Senator Rex Patrick during Senate Estimates February 2022 (Hansard) said “I think most people understand, when they donate to charities, that there is a cost. I'm not convinced people would understand that that was going to go to a government department or a government agency. That's where my problem lies. There has been a lack of transparency.”
- In the example above raised by Senator Rex Patrick the organisation in question had over \$10,000 withheld from its donation by ASF.

3. Timing of Provision of the Benefits

One of the hallmarks of community sport providing the benefits is the regularity and consistency by which it is provided.

The messaging and practice across sport is very consistent and reliable with training and accreditation of coaches, officials and management required and largely accessible across the system.

The physical and mental health benefits of community sport are provided directly to each participant on almost every occasion that they attend and take part – every training session, every match day, every club event the member receives the Harm Prevention benefits and is further educated in Health Promotion aspects.

This contrasts with engagement with other charitable causes eg: Research where the donated funds may be used for something that will not bear fruit for months, years, decades or maybe never.

Community sport provides the benefits of participation directly to each individual – every single time!

4. Stability and Longevity

The majority of sporting clubs, once established stay in existence for many years providing a stable and consistent entity that can be relied upon by members of the local community. As players move through the ranks by age or skill level they are generally replaced by the next generation which contributes to club cohesion and growth.

Some clubs do of course fold for various reasons over time including changing demographics or sporting preferences but the majority of clubs, once established operate for many years.

This stability and longevity of sporting organisations can be contrasted with many ultimately unsustainable charitable organisations that fold within the first one or two years.

5. Volunteering

We applaud the Commission's recognition of the contribution of Australia's volunteers and note that over 30% of all volunteers contribute to sport and recreation.

The Commission report states that Volunteering may contribute additional value by creating social norms, networks and trust, facilitating cooperation and promoting cooperative behaviour. Volunteering can also diffuse knowledge and innovations. (p53)

Volunteering is essential for the continued operation of community sporting organisations and as NFP entities they could not exist without volunteer support.

We note that many organisations recommended by the Commission to be "charities gaining DGR status" Figure 6 p19 are '*charities run solely by volunteers*' just as community sporting organisations are.

6. Fairness and Equity

CAS is concerned that the Commission is dictating which causes dear to the heart of a donor should be deemed valuable enough to allow for a DGR return?

This non- recognition effectively downgrades the value of community sport participation in the eyes of the public – it is shown to be a lesser value than other causes – cancer, homelessness, animal welfare, the list goes on. We are not saying that these causes are not worthy of charitable status – that is a matter for others.

However, Sport provides just as valuable a contribution and should be recognised as such.

7. International DGR Examples

CAS queries the comment by the Commission that international examples including the United Kingdom, New Zealand and Canada are not transferrable to the Australian context (p179 and Box 5.2). These countries have moved past the Victorian England judgement in the *Nottage* case of 1895 and recognise the much broader range of benefits that community sport provides.

We ask the Commission to reconsider this point as there are many community similarities with these countries and the public attitude to the benefits of community sport is very much aligned.

8. Capacity of Sporting Organisations to handle administrative and reporting requirements

National Sporting organisations believe that the entities under their auspices are capable of issuing compliant tax deductibility receipts, maintaining donation databases and records and reporting as required to the ACNC.

It is proposed that a sport-wide system be developed to assist individual organisations with the necessary understanding and requirements. Communication could be managed at a national level and passed through established state, regional and local structures to ensure consistency and accuracy.

Clubs are well practiced in utilising a proforma and systemised approach and will be able to handle the ACNC requirements.

This process would ensure greater simplicity of the system and effectively streamline the requirements of the ACNC.

Less than 20,000 Additional Entities estimated

Of the 70,000 sporting organisations, NFP providers and commercial operators currently delivering sport it is estimated that less than 20,000 entities would be able to comply with the four criteria of charitable status with the vast majority of these being affiliated directly to NSOs. Thus, a manageable number of additional charities would be created and this is most likely to evolve over years rather than all occurring at once.

Establishing a 'Gift Fund' has merit

The concept of establishing a Gift Fund within each entity has merit and would avoid confusion about the use of funds. It would provide a focal point within the Club for targeted activity.

An education process could be undertaken to ensure that community level organisations correctly establish their Gift Fund and allocate funds for non-excluded purposes and then report on the source and use of funds accurately.

Necessary amendments to the Organisation's Constitution

It is anticipated that community sporting organisations that may be interested in utilising charitable status – should it become available – will be either existing incorporated associations reporting to their respective State/Territory Government or may be public companies limited by guarantee. The vast majority will be existing incorporated associations.

Making the necessary amendments to their entity's Constitution will be a straight forward process to bring them into line with the required purpose clause and objects of the organisation.

9. Final Remarks

Request for the exclusion of community sport to be re-considered.

It is requested that the Commission reconsider the decision to exclude Sport, particularly community sport as a charitable purpose and we provided the following points in support of our position.

The interpretation used by the Commission from the *2001 Charities Definition Inquiry* of sport being principally for amusement and competition is too narrow and fails to take into account the significant changes to Australian society that have evolved over the past 20 years. Important changes not recognised include deterioration in the mental health and psychological wellbeing of the population, particularly of young people and particularly in regional, rural and remote locations.

The narrow interpretation also fails to recognise the broader package of benefits that community sport provides.

As explained the broader range of benefits provided by community sport should not be dissected and cherry-picked and should be considered as a whole package which has been demonstrated to meet the Public Benefit requirements of either Health Promotion or Harm Prevention charities.

Achieving charitable status will not be a silver bullet in increasing funding for community sporting organisations and the current potential sources of revenue remain vital. Charitable status will however provide the opportunity for clubs to supplement their income, to promote locally what they seek to achieve and to bring the local community along on their journey.

Charitable status will provide appropriate and deserved recognition for the important contribution that community sport makes to the participating individuals and to society more broadly.

We ask the Commission to accept our case and over-turn the current recommendation to continue excluding Sport as a charitable purpose.

This decision is time critical because a further review of charitable status is very unlikely to occur in the near future. The 20 year gap since the last review shows the likely timeframe if this opportunity is missed.

Thank you again for the opportunity to contribute to this important process.

Yours sincerely



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