



Australian Government



Submission to Treasury

**Improving the integrity of
Prescribed Private Funds**

14 January 2009

STATEMENT

The Australia Council for the Arts (Australia Council) is the Australian Government's arts funding and advisory body.

The Australia Council has a fundamental and professional interest in advocating for the arts sector's wellbeing across its many frameworks, including its strong relationship with philanthropists and foundations, and this instance prescribed private funds (PPFs).

The arts attract significant amounts of philanthropic income from PPFs – of the \$301.3 million total distributions made by PPFs between 2002-2007, the cultural sector received \$52.8 million, or 17.5 per cent¹.

The Australia Council fully supports the Treasury's aim for more effective, accountable, transparent and law-abiding PPFs, but also wishes to ensure that any new regulatory regime does not deter the establishment of new PPFs or obstruct the continued enthusiasm and sustainability of existing ones.

The Australia Council fully supports the submission of **Philanthropy Australia**, having participated in its preparatory discussions, and recognises that it has the best interests of the sector well covered.

The Australia Council's knowledge of the philanthropic sector is largely derived from the specialist work of **Artsupport Australia**, an initiative that was established in 2003 to increase cultural philanthropy. Artsupport Australia has cultivated many close relationships with key legal, corporate, academic, financial, government and philanthropic bodies and individuals that inform this submission.

Recognising that many of the technical details on PPFs provided in Treasury's discussion paper are outside the Australia Council's sphere of expertise, we however take the opportunity to comment on two proposed amendments, that we believe are likely to have adverse impacts on the sector, namely:

Required distributions (Principle 1a)

Legislating for a minimum annual distribution of 15 per cent introduces the potential of eroding PPFs out of existence in 10-15 years. A minimum figure of 5 per cent seems a more sustainable proposition – and still leaves the option for PPFs to give more if that is their wish. Many PPFs such as the Balnaves Foundation, provide three-year grants to enable their recipients to leverage their maximum future sustainability out of the investment, making it a lasting one. PPFs will not be able to make forward commitments such as these, if their own sustainability is threatened.

¹ QUT CPNS Current issues sheet 2008/6
http://www.bus.qut.edu.au/research/cpns/documents/2008_6_PPFs_Final_Web.pdf

Privacy of PPFs (Principle 3)

Given there are more than 20,000 deductible gift recipients (DGRs) that are increasingly seeking philanthropic income, and being a grant maker itself (distributing funding through 1736 grants and projects in 2007-8), the Australia Council recognises the enormous burden to respond to funding requests that PPFs would be exposed to if their contact details were to be made public.

It would seem that the decision to make a PPF's contact details public would best be made by the PPF itself. If such a requirement was mandatory, it would bring undue administrative and resource burdens to PPFs, especially to the smaller ones. Those resources would be better directed to the other grant making operations of PPFs.

ARTS & PHILANTHROPY

The relationship between art and philanthropy has many historical antecedents. In Australia, the arts have long enjoyed the support of many philanthropic foundations and individual donors, such as the Myer Foundation (now engaging its fourth generation), the Ian Potter Foundation, the Alfred Felton Bequest, the Nelson Meers Foundation, the Balnaves Foundation, and John Kaldor AO among many others.

The last decade has seen the level of philanthropic support and engagement with the arts in Australia grow substantially, propelled by a prosperous economy, the advent of PPFs, and the greater public awareness about philanthropy that they have brought. While more sophisticated than it has ever been, the culture of giving in Australia nevertheless still lags behind the US or Europe experience.

The growth of PPF support for the arts (culture) has been well documented by Queensland University of Technology's Centre for Philanthropy and Non Profit Studies, a recognised research leader in the field. Their 2008/6 Current Issues Sheet² notes that of the \$301.3 million total distributions by PPFs between 2002-2007, cultural organisations received \$52.8 million, or 17.5 per cent. Looking at the largest three PPF beneficiaries by sector, the arts have distinctly increased over this period, even relative to others³:

Year	Welfare	Arts	Education
	\$m	\$m	\$m
2002	2.78	0.76	0.85
2003	8.32	2.55	3.45
2004	9.59	2.89	4.23
2005	23.52	2.31	12.60
2006	23.50	5.20	12.22
2007	29.77	39.04	7.72
Total \$m	96.47	52.76	41.075

² QUT CPNS Current issues sheet 2008/6

http://www.bus.qut.edu.au/research/cpns/documents/2008_6_PPFs_Final_Web.pdf

³ This excludes the category of 'Other' which totaled \$51.62m over the same 5-year period - for the reason of being too indeterminate in terms of sector.

An example of this trend can be seen in the increase of PPF grants to public art galleries by 4570 per cent in 2007 on 2006 figures⁴, underpinned by several major grants in that year to the National Gallery of Victoria, the National Gallery of Australia, and the Museum of Contemporary Art among others.

The major performing arts companies funded by the Australia Council reported an increase in philanthropic income of 44 per cent in 2007 compared to the previous year's records, in which PPFs certainly play a part. Many of the larger companies are registering separate entities (gift funds or foundations) for the purposes of fundraising.

Another key measure of the growth in arts philanthropy can also be found in the number of arts and cultural organisations registered with DGR status, having increased from 773 in 2001 to over 1100 in August 2008⁵, with a formal listing on the Government's Register of Cultural Organisations (ROCO)⁶.

It is worth noting that while the arts can provide uplifting cultural experiences in popular formats, they can also be used to bring about positive social change in areas such as literacy, health, youth-at risk, unemployment, homelessness, dysfunctional and disadvantaged communities – which has been of great interest to philanthropists.

ARTSUPPORT AUSTRALIA – GROWING CULTURAL PHILANTHROPY

Artsupport Australia is an initiative of the Australia Council launched in 2003. It has substantially built the capacity of the arts sector to secure philanthropic income and manage new philanthropic partnerships.

Over the past five and half years, Artsupport Australia has directly facilitated in excess of \$20 million in philanthropic grants and/or donations to Australian artists and arts organisations.

Artsupport Australia is a legacy of the Australia Council's former chairman David Gonski AC, a powerful advocate for philanthropy in Australia, who was chair of the Working Group of Taxation Reform of the former Prime Minister's Community Business Partnership⁷. To stimulate greater philanthropic activity, that group devised PPFs as a new philanthropic structure, that in turn would provide new income streams for eligible DGRs – of which the arts were a part – and overall, mobilise new and greater investment and involvement with the community. A leading arts patron himself, Gonski recognised the potential, as well as the need, for greater philanthropic support of the arts. Together with James Strong AO, then chair of the Australia Business Arts Foundation (AbaF) and current chairman of the Australia Council, both were instrumental in establishing Artsupport Australia to realise that mission.

Artsupport Australia provides a free advisory and research service to philanthropists and foundations on artists and arts projects that match their objectives. It also provides a mentoring service to artists and arts organisations about possible philanthropic sources and effectively managing philanthropic relationships. It comprises six staff,

⁴ QUT CPNS Current issues sheet 2008/6, *ibid*

⁵ Quoted by Linda Mallory, ROCO section, Department of Environment, Water, Heritage and the Arts 27 August 2008

⁶ http://www.arts.gov.au/tax_incentives/register_of_cultural_organisations

⁷ Get web link

with a Sydney-based director and a manager in each of Darwin, Perth and Brisbane. This national network enables the close cultivation of local expertise and relationships that are fundamental to the development of lasting philanthropic partnerships.

Artsupport Australia draws on the resources, expertise and networks of the Australia Council, its parent body, to leverage the best possible philanthropic outcomes for the arts and provide the sector with new skills. The Council itself distributes Australian government grants to artists and arts organisations (\$146.9 million in 2007-8), but even so, many worthy projects do not succeed or have a shortfall. This is where philanthropy has been an important opportunity, and where Artsupport Australia has played an important bridging role.

ARTSUPPORT AUSTRALIA AND PPFs

Since 2003, Artsupport Australia has enthusiastically supported the promotion of PPFs as a giving device⁸. It has conducted national information seminars on PPFs in all capital cities except Darwin, that have featured influential speakers such as David Gonski AC, John Emerson AO, Paul Clitheroe AO, Christopher Thorn and Neil Balnaves among others. As a direct result of these efforts, Artsupport Australia believes that it has been directly instrumental in the establishment of at least 10 per cent of PPFs. It has also held subsequent PPF networking events in Sydney, Melbourne, Perth and Brisbane to bring together PPF founders and trustees in the spirit of exchange and encouragement to support the arts.

The Australia Council has many close relationships with PPFs, and acknowledges its formal communication with The Balnaves Foundation and The Clitheroe Foundation in the preparation of this document, and endorses their concerns for the proposed amendments that they have submitted to Treasury independently.

Detailed case studies of Artsupport Australia's involvement with a number of PPFs and the important arts projects that have been supported as a result (e.g. The Clitheroe Foundation, The Balnaves Foundation and the Keir Foundation among others) are available on this link http://www.australiacouncil.gov.au/philanthropy/case_studies

CONCLUSION

Arts and culture have been major beneficiaries of philanthropic support provided by PPFs – receiving \$52.8 million of the \$301.3 million total distributions made by PPFs between 2002-2007 (17.5 per cent)⁹.

In its capacity as the Australian Government's arts funding and advisory body, the Australia Council supports the Treasury's aim to improve the integrity of PPFs, but also wishes to ensure that any new regulatory regime does not deter the establishment of new PPFs or obstruct the continued enthusiasm and sustainability of existing ones.

⁸ QUT CPNS Current issues sheet 2008/1
http://www.bus.qut.edu.au/research/cpns/documents/2008_1_PPFs.pdf

⁹ QUT CPNS Current issues sheet 2008/6
http://www.bus.qut.edu.au/research/cpns/documents/2008_6_PPFs_Final_Web.pdf

The Australia Council is concerned that two particular amendments proposed in the Treasury discussion paper – minimum 15 per cent distribution of PPFs (principle 1a) and making PPFs more public (principle 3) – will have an adverse effect on the ‘end users’ of the cycle i.e. the DGR recipients, of which the arts sector is a part.

The Australia Council fully supports the submission of **Philanthropy Australia**. It participated in their preparatory discussions, and recognises that it has the best interests of the sector very well covered.

The global financial crisis brings a different fiscal environment to that of the previous decade in which Australian philanthropy flourished. If a decline in philanthropy from PPFs – a substantial contributor to the not for profit sector - is already a natural extension of that crisis, it would be an extra loss, if any new regulations would further thwart their operation and sustainability. The sophisticated culture of philanthropy that has developed over the last decade has brought vast benefits to many sectors, and specifically the community beneficiaries – it would be a great loss to see that community investment diminish.