



# Grant Thornton

Manager, Philanthropy and Exemptions Unit  
Personal and Retirement Income Division  
The Treasury  
Langton Crescent  
PARKES ACT 2601

By email: [nfpreform@treasury.gov.au](mailto:nfpreform@treasury.gov.au)

25 February 2011

Grant Thornton Australia Limited  
ABN 41 127 556 389

Level 17, 383 Kent Street  
Sydney NSW 2000  
Locked Bag Q800  
QVB Post Office  
Sydney NSW 1230

**T** +61 2 8297 2400  
**F** +61 2 9299 4445  
**E** [info.nsw@au.gt.com](mailto:info.nsw@au.gt.com)  
**W** [www.grantthornton.com.au](http://www.grantthornton.com.au)

## **CONSULTATION PAPER: SCOPING STUDY FOR A NATIONAL NOT-FOR-PROFIT REGULATOR**

Grant Thornton Australia Limited (Grant Thornton) is pleased to provide Treasury with its comments on the Consultation Paper (CP) which provides policy options for future policy direction.

Grant Thornton's response reflects our position as auditors and business advisers to the Australian business community. We work with listed and privately held companies, government, industry, and not-for-profit organisations (NFPs).

This submission has benefited with input from our clients, and discussions with key constituents, and we broadly support the various proposals in the CP.

### **Timing of consultations**

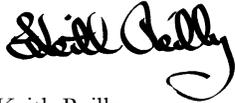
Grant Thornton has made a number of submissions on various Government initiatives in the NFP area including the Productivity Commissions various Reports and Discussion Papers. We fully support the need for immediate reform to ensure that the NFP sector is able to benefit from both reduced red tape and also have improved transparency and accountability. However we are disappointed that Treasury has allowed for only a short 4 week period for comment on what we believe are fundamental reforms to the NFP sector. We therefore question whether Minister Shorten's statement that 'The Government is committed to consulting with stakeholders' on what he terms such important issues, are being met in practice. We hope that future consultations are conducted in less haste so that constituents can properly consider and the Government can properly determine the important reforms that are needed and which have been subject to various debate but so far little real reform over many years.

Our specific responses to the Consultation questions are attached.

If you require any further information or comment at this time, please contact me.

Yours sincerely

GRANT THORNTON AUSTRALIA LIMITED



Keith Reilly

National Head of Professional Standards

# Appendix: Response to consultation questions

## **The goals of NFP regulation**

### **1 Are these goals appropriate and adequate for national regulation? Which of these are most important?**

We support the goals as set out in paragraphs 37 to 41, and believe that they are all important, namely the promotion of NFP activities, minimal costs to NFPs, a one-stop shop, appropriate monitoring and one national and focused NFP regulator.

### **2 Are there any other goals for national regulation?**

We suggest that reference should be made to NFP regulation and work being done in this area in overseas jurisdictions and having particular regard to the need to ensure consistency where possible with New Zealand given the Government's closer economic relations policy. We also see a need for increased and on-going education for the sector particularly given what are often quite small organisations that lack such resources.

## **Scope of the national regulator**

### **3 What should the scope of a national NFP regulator be? What types of entities should be regulated by a national NFP regulator?**

We support a newly established focused national regulator that has sole responsibility for all NFPs.

### **4 Should some legal forms be treated differently? If so why?**

We see no reason why NFPs should be treated any differently due to differences in legal form. However we do believe that the relative size of NFPs does need to be taken into account for regulatory purposes. For instance a single purpose sole location small NFP will require less regulatory overview compared to a major national charity.

**5 Should the supervision of charitable trusts be moved from the state Attorney-General's to a national regulator?**

Yes, all NFPs should come within the scope of the NFP regulator.

**6 Should regulation of incorporated associations (including reporting and governance) be moved to a national regulator? Should there be a residual role of the states in regulating incorporated associations?**

Yes, and as detailed in our comments at Q5, we believe that all NFPs including

Incorporated associations that are mostly NFPs should be within the scope of the national regulator. We don't see a residual role for the states as this would involve duplication of activities.

**Functions the national regulator may undertake - access to taxation concessions**

**7 What impacts would simplifying and streamlining mechanisms for the assessment, granting and monitoring of concessional tax treatment have on the NFP sector? In particular, what impacts would this have on small and new NFP entities?**

We support streamlining the tax treatment of NFPs and the benefit will be most obvious for the smaller and new NFPs that do not have the resources to manage the various tax treatments available to NFPs.

**8 What are the likely compliance cost savings from improvements to taxation arrangements?**

We believe that there will significant compliance cost savings but also it will encourage NFPs to obtain the concessional tax treatments that they are entitled to but often are unable to access due to the complexities of seeking tax concessions.

**9 Does the current complexity of the taxation framework discourage entities from applying to access tax concessions? If so, what elements of the framework are most problematic?**

As detailed in our comments at Q8, the complexity of the tax framework does discourage the use of tax concessions across the board.

**Regulation and supervision**

**10 What value would educational and compliance initiatives managed by a new national NFP regulator provide to NFP entities?**

We support the initiatives as identified in paragraph 66-70 of the CPs description of the role of an education function within the national regulator. The obvious benefit is that the new national NFP regulator would be much more in touch with the needs of NFPs.

**11 What benefits would a ‘report-once, use-often’ model of reporting offer?**

We support the benefits identified in paragraphs 71-101 of the CP. Clearly the use of technology initiatives such as SBR’s XBRL reporting and standard Chart of Accounts that enables a ‘report once-use often’, will be of significant benefit to both NFPs and the regulator.

**12 What information do NFP entities currently provide to government agencies? Do these include general purpose financial reports and fundraising reports? What other reports are currently required? What do the reporting requirements involve? What information is required for the purposes of grant acquittals?**

There is a myriad of reporting that presently occurs that is both costly and inefficient, ranging from annual financial reports, BAS statements, payroll, FBT, grant acquittals, fundraising reports etc all of which will benefit from a ‘report once-use only’ model. In particular there is significant duplication around grant reporting and acquittals. Many NFPs are required to complete significant documentation and have separate programs audited even for some low value funding and often requests are in conflict with legal structures and other financial reporting and auditing frameworks.

**13 How significant is the compliance burden imposed by requirements for acquittal of grants? Where could these be simplified?**

These requirements are inconsistent between granting organisations and a ‘report once-use only’ model using a standard Chart of Accounts and SBR/XBRL technology would allow significant simplification.

**14 What benefits would the establishment of a NFP sector information portal have for the public, the sector and governments? What information should be available on the portal?**

We see the benefits being a significant reduction in costs for both NFPs and these government agencies and others who monitor NFP activities

**15 What information might need to be provided to a national regulator but not made public through an NFP information portal**

We believe that all information should be publicly available.

**16 What benefits would be provided by the application of SBR to the NFP sector, following the implementation of the SCOA so as to minimise any additional compliance costs?**

As detailed in our earlier comments the 'report once, use often' model will significantly reduce costs to NFPs, after some initial set up costs and allow greater transparency and accountability for NFPs.

**17 Given its voluntary nature, are many NFP entities likely to use SBR? What barriers, such as preferences for providing reports in paper form or reluctance to upgrade accounting software, might reduce usage of SBR by NFP entities?**

There is sufficient overseas evidence and now Australian evidence that the use of SBR/XBRL technology does result in significant cost savings. We do however agree that there are some initial set up costs that will particularly impact smaller NFPs and we would support public funding to encourage NFPs to adopt this technology.

**18 Are the suggested core rules and regulatory framework adequate?**

We support the core rules and framework as set out in paragraphs 107 to 112.

**19 What powers does the regulator require to improve governance and regulatory oversight?**

We support the proposed powers in the CP and as a benchmark the current Australian and Securities Commission's (ASIC) powers are worth considering.

**20 What role should a national regulator play with respect to fundraising?**

We support the national regulator having total fundraising monitoring and compliance.

**Constitutional and jurisdictional issues**

**21 What problems arise from the complex interrelationship between Commonwealth, state and territory responsibilities in this area?**

We see the benefits significantly outweighing the costs and on that basis would hope that the various levels of Government are able to work together for the establishment of a new national regulator that is in the best interests of both NFPs and society generally.

**22 What might be the implications of the different approaches of referral of powers or harmonisation of legislation?**

As detailed in our comments at Q21 we believe that it is in the best interests of NFPs and society generally to have a single national regulator. We note that anecdotally the current state based regulation does not work as it adds complexity for NFPs operating nationally and state based bodies have been under resourced to properly monitor.

### **The form of the national regulator**

**23 What form of the national regulator best meets the objectives of simple, effective and efficient regulation of the NFP sector?**

As detailed in our earlier comments we believe that a new single focused national regulator is needed to achieve the reforms needed for the NFP sector. Inevitably other existing bodies such as the Australian Taxation Office (ATO) or ASIC already has a particular focus and the NFP sector is too important to have to be shared with another existing regulator's activities.

**24 Would a Commonwealth only regulator provide sufficient benefits to the sector?**

No. NFPs operate around Australia and just having NFPs that are currently within the Commonwealth jurisdiction would not deliver the needed benefits that State based NFPs need.

**25 Are there benefits from establishing an interim regulator through an existing Commonwealth regulator, to undertake immediate reform?**

Perhaps but this should not be used to delay the establishment of a new national regulator. Any interim solution does seem to be at odds with the Government's 'eagerly awaited reform' objective. What is needed is a national Commonwealth structured regulator that has responsibility for all NFPs that operate in Australia, whether they currently be under Commonwealth, State or Local Government legislation.

### **Sector specific issues**

**26 What would be the advantages and disadvantages of incorporating the functions of ORIC and the proposed housing regulator into a national regulator? What alternative approaches are available to avoid duplication?**

We see significant advantages outweighing any disadvantages in having all NFPs under the auspices of a single national NFP regulator rather than maintaining the Office of the Register of Indigenous Corporations (ORIC).

**27 What benefits could flow from a national regulator maintaining a dedicated subsection focusing on Indigenous corporations and/or housing?**

We suggest that within the single national register there may be a need to have separate sections dealing with particular types of NFPs but generally we would support consistent regulation applying to all NFPs.

### **Funding**

**28 What level of contribution should NFP entities make to the cost of the national NFP regulator?**

Given the value that the NFP sector makes to the welfare of the wider community, philosophically we believe that NFPs should generally be fully funded from a national regulator perspective. In any case we would not support filing fees being in excess of what the New Zealand position is (see paragraph 163 being NZ\$51.11 for on-line filing).

**29 Should there be a differential cost for smaller NFP entities?**

We don't believe, as detailed in our comments at Q28 that NFPs should pay regulator costs, however if there is a cost, then clearly we would support smaller NFPs paying reduced fees.

**Definitional Issues**

**30 Would a statutory definition of charity achieve the goals of greater certainty and administrative efficiency in relation to the determination of charitable purpose, particularly in relation to determining access to taxation concessions and across different jurisdictions and laws?**

We would support a definition that is arrived at after appropriate consultation.

**31 Is Parliament a more appropriate body to define charitable status than the courts, given its ability to be more responsive to changing community needs and expectations?**

Yes and is accountable to the public which the Courts are not.