

Australian Government Productivity Commission

# REVIEW OF PHILANTHROPY

SUBMISSION BY  
THE AUSTRALIAN SPORTS FOUNDATION

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The Australian Sports Foundation acknowledges the Traditional Custodians of the land we are gathered on and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

## 1. ABOUT THIS SUBMISSION

The Australian Government has asked the Productivity Commission to carry out a review of philanthropy to, inter alia, *“identify opportunities for, and obstacles to, increasing philanthropic giving in Australia.”*

The Australian Sports Foundation (ASF) is Australia’s peak body for philanthropy in sport and Australia’s national sports not for profit and charitable fundraising entity. ASF is seeking to **elevate sport as a philanthropic cause** and to **grow philanthropic contributions to sport to \$300m** a year by 2032. Achieving this level of philanthropic support would reduce the fiscal burden on the Federal Government, improve physical and mental health and enhance social cohesion in communities all over Australia.

This submission makes three key points for consideration by the Productivity Commission:

- I. Sport currently receives only around 0.6% of philanthropic giving in Australia, which does not reflect its health and community benefits, nor its important role in Australian life more broadly;
- II. The current low share of philanthropic giving to sport arises from obstacles in the existing legislative and regulatory framework that result in sport being seen as a secondary cause, and which explicitly limit the flexibility of donors to support sport from Ancillary Funds if they wish to do so; and
- III. There is an urgent need to increase philanthropic funding for sport to address the severe impact of Covid-19 on community sport, and to fully leverage the opportunity presented by the 2032 Brisbane Olympic and Paralympic Games.

This submission highlights the current obstacles and presents solutions for consideration by the Commission and the Government. If the proposed changes are enacted, then philanthropic funding for sport is expected to grow to \$300m a year by 2032, which will create a healthier more active Australia and help reduce the growing sports funding burden for the Federal Government.

## 2. BACKGROUND TO THE ASF

### 2.1 HISTORY

The ASF is a Federal Government agency that was established in 1986 (as set out in Section 8(1) of the Australian Sports Commission Act 1985), with a solitary purpose: *to raise money for the development of sport in Australia*. The policy intent behind establishing the ASF was to facilitate greater investment in sport from non-government sources via philanthropic donations.

To assist in this purpose, the ASF was granted “Item 1” Deductible Gift Recipient (DGR) status when it was listed by name in the Income Tax Assessment Act 1997 (subdivision 30-B, section 30-90). The ASF is thus the only organisation in Australia that allows a donor to claim a tax deduction for philanthropic donations to sport (sport is not a purpose eligible for either DGR or charitable status under current Australian law).

The establishment of the ASF and its unique (in sport) DGR status reflects the important role sport plays in Australian life and the valuable physical and mental health benefits of participating in sport – an aspect that is more important than ever given increasingly sedentary lifestyles, rising obesity levels and the associated health problems this presents to Australian society. Equally important is the role that sport plays in social cohesion – binding our communities together, playing a key part in integrating new participants into the Australian community, helping engage marginalized or disadvantaged groups and teaching valuable life skills such as teamwork, resilience and discipline, to our children.

### 2.2 FUNDRAISING AND FUNDING ROLE

Giving to sport differs from many other philanthropic causes because donors typically do not wish to give to “sport” as a generic cause; rather, donors generally have a highly personal connection with a particular sport, club, athlete or community that motivates philanthropic giving. In this respect sport is similar to the arts and cultural causes – where donors will not typically give to support “the arts” “or culture” but will do so to support a particular museum, gallery or performing arts organisation etc.

ASF leverages this personal connection by enabling donors to make a tax-deductible gift to ASF and nominate a particular club, organisation or athlete to be the beneficiary of their funds. Whilst ASF is not obligated to follow the wishes of the donor, we seek to honour donors’ wishes wherever it is reasonable and possible to do so, as would any other philanthropic organisation.

In effect, therefore, ASF acts as an “umbrella DGR” for the whole of Australian sport, enabling and facilitating tax-deductible donations to be made in support of any club, organisation or athlete anywhere in Australia. This is a vital role, as the tens of thousands of volunteer-run community sports clubs in Australia would not have the capacity to manage and sustain DGR status (even if sport were a purpose eligible for DGR endorsement by the ATO, which is why we have not proposed this as a possible improvement).

In fulfilment of this role, ASF provides Australian sport with the facilities and support to raise philanthropic funds, including:

- Use of our online sport-specific fundraising platform and associated digital payment methods;
- Provision of tools, resources and information to run successful fundraising campaigns;
- Capacity building, providing training to members of community sports clubs to enable them to develop the capabilities to raise philanthropic funds for their club on an ongoing basis;
- Access to our Fundraising Support Team to provide personal guidance and support;
- Governance over the use of funds to provide comfort to donors that their gift will be used for the intended purposes; and
- Handling regulatory compliance with the Australian Taxation Office (ATO) and Australian Charities and Not for profits Commission (ACNC) as required.

On average, 95% of donated funds are distributed to nominated beneficiaries, with only 5% retained by ASF to cover administration and overhead costs. This is a highly efficient model for the sports sector – as the vast majority of sports clubs would have neither the resources nor expertise to handle the regulatory compliance required of a DGR. It is also a highly efficient model for regulatory bodies such as the ATO, which would otherwise have to manage compliance among many tens of thousands of individual sporting DGR's.

### 2.3 THE AUSTRALIAN SPORTS FOUNDATION CHARITABLE FUND (ASFCF)

As outlined above, the ASF is an “Item 1” DGR and can thus receive tax deductible donations from individuals and businesses and distribute funds in the form of grants to non DGR's, such as beneficiary sports clubs or athletes.

However, in the last decade or so there has been a growing trend for philanthropic giving among the High-Net-Worth community to be managed through structured giving vehicles, particularly Private and Public Ancillary Funds (together referred to as Ancillary Funds for the purposes of this submission). Ancillary Funds now represent one of the fastest growing areas of philanthropy and this trend is set to continue in line with the Federal Government's intention to double philanthropic giving by 2030.

This presented a problem to ASF in raising funds for sport, as under the ATO's Model Trust Deed for Ancillary Funds, such vehicles are only able to distribute funds to an "*Eligible Entity*", which is defined as an entity that is both a DGR and which is charitable. As sport is not a charitable purpose, ASF was unable to become a charity and was thus precluded from accessing funding from this large and growing segment of the philanthropic sector. [While this submission will go on to explicitly address this major obstacle to giving at section 3.4 below, these introductory comments are intended to provide the Commission with an overview of the current position insofar as ASF and ASFCF is concerned].

Accordingly, the ASF established a charitable fund, ASFCF, to seek to overcome this barrier. ASFCF's purpose is *to raise money for the development of sport in Australia **for any charitable purpose***, and it was granted "Item 1" DGR status with effect from 1 July 2018, which made it an eligible recipient of support from Ancillary Funds.

However, whilst ASFCF can receive distributions from Ancillary Funds and distribute these as grants to non DGR beneficiaries, such as sports clubs and athletes, ***it can only do so where the club or athlete is carrying out a purpose which is charitable under existing Australian law***, with sport merely incidental or the means to the charitable end.

This has limited the impact of ASFCF and presents a major obstacle to philanthropic support for the sporting community.

While this submission will address a number of the Information Requests in the Productivity Commission's Review of Philanthropy, the difficulties in ASFCF accessing funding from Ancillary Funds to distribute to sporting clubs and athletes in need of support is a core issue that currently disadvantages sport and is an obstacle to the community's desire to give to sporting causes. Consequently, the most important aspect of our submission is directed at the need to address this obstacle.

### 3. RESPONSE TO SELECTED PRODUCTIVITY COMMISSION INFORMATION REQUESTS

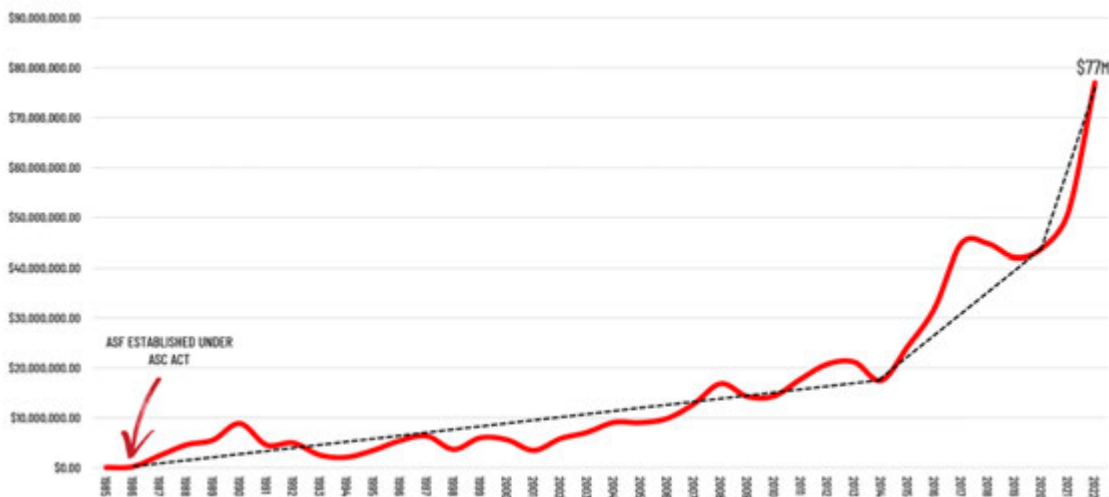
#### 3.1 INFORMATION REQUEST 1: DEFINING PHILANTHROPY AND THE INQUIRY'S SCOPE

The ASF considers that the Philanthropy Australia definition (*“the giving of money, time, information, goods and services, influence and voice to improve the wellbeing of humanity and the community”*) is appropriate, being sufficiently broad and descriptive to be acceptable to most involved in the sector. We agree that the inquiry should not extend to social impact investing or political donations.

#### 3.2 INFORMATION REQUEST 2: VEHICLES, TRENDS AND MOTIVATIONS FOR GIVING

3.2.1 *Overall trends.* As the vehicle to facilitate and enable philanthropic donations to sport, ASF is uniquely positioned to analyse sports giving and trends. Recent years have seen a significant increase in sports philanthropy using the ASF fundraising model, from under \$20m pa in FY2014, to c\$77m in FY22, as illustrated below:

ASF FUNDS RAISED FOR AUSTRALIAN SPORT



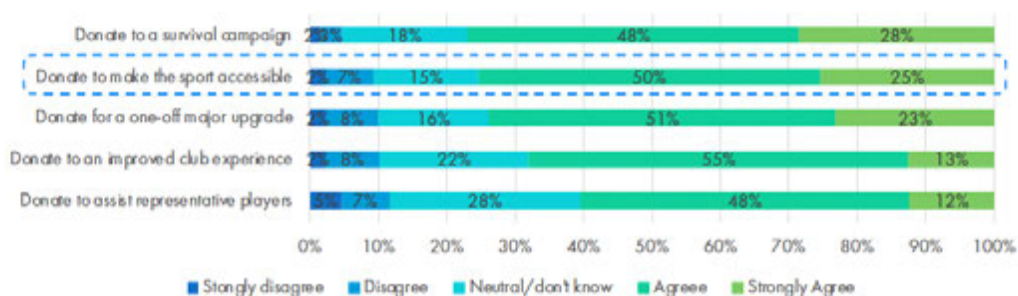
When looked at in isolation, this growth is impressive. However, the FY22 donation figure of \$77m represents just **0.6% of the \$12.7bn in charitable giving** reported by the ACNC. This tiny proportion does not reflect the value of sport to people and communities, its positive impact on community health and Australians’ underlying passion for and deep personal connection to sport. The relatively low proportion of philanthropic giving that is currently directed to sport lags far behind philanthropic support for arts and cultural

organisations, which we consider a comparable cause, and directly reflects the current obstacles that hinder sports philanthropy, as this submission will go on to highlight. It also underlines the opportunity to achieve further significant growth in philanthropic giving to sport if those obstacles could be removed which would in turn assist the Federal Government in its objective to double philanthropic giving by 2030.

3.2.2 *Fundraising costs.* ASF distributes 95% of all monies donated in the form of grants to sports clubs and athletes, with only 5% being retained to cover costs of fundraising and associated administration. This represents a highly efficient model, and a much lower overhead than other fundraising organisations.

3.2.3 *Motivations for giving.* We have already highlighted that giving to sport is typically driven by a personal connection to a club or sport, rather than a passion for sport as a generic cause. ASF has also conducted donor research that analyses sports causes that most appeal to donors, and “club survival” and “making sport accessible” have the most appeal (see graphic below). This is particularly important in the current environment, because rising cost of living is impacting sports participation, with many families unable to afford membership and other fees for their kids to participate in sport. In a recent ASF survey (to be published later in May 2023) 52% of clubs cited cost of living as the top cause for participation decrease, and 24% of small community sports clubs have considered closure as a result of current pressures. The opportunity for the philanthropic sector to provide support to help lower income families engage in sport and to aid the sustainability of local clubs is one that should be encouraged, not hindered.

### DONOR MOTIVATIONS – SPORT



## 3.3 INFORMATION REQUEST 3: ROLE OF GOVERNMENT IN PHILANTHROPY

3.3.1 ASF considers that providing a tax framework and, where appropriate, other incentives to encourage philanthropy makes great economic and fiscal sense. It enables the sector to step in and provide support and reduces the overall cost to Government.



3.3.2 Within the sporting sector, there are two macro-trends that make it vital to take immediate steps to further grow philanthropy in sport:

- I. Covid-19 has had a devastating impact on community sports clubs, leading to reduced income, increased costs and a rapid decline in volunteers. Later in May 2023 ASF will release the results of a survey of nearly 3000 community sports clubs, representing all sports and in all states and territories. One of the most sobering statistics in that report is that nearly **one in five clubs overall and a quarter of small clubs surveyed have considered folding** due to the combination of financial, participation and volunteering pressures. This equates to many thousands of sports clubs – and the loss of thousands of these vital building blocks of community life would have a devastating impact on social health and cohesion.
- II. The award of the 2032 Olympic and Paralympic Games to Brisbane is exciting for every Australian, but is likely to result in more and more demands from sport for Government funding. An example of this is the recent speech at the National Press Club by the CEO of the Australian Olympic Committee, Matt Carroll AM, when he called for **additional Federal Government funding of \$2bn for Olympic and Paralympic sports** over the coming decade. ASF wishes to work with the sporting and philanthropic sector to increase philanthropic funding and reduce the growing burden on the Federal Government. Brisbane 2032 presents a once-in-a-generation opportunity to engage the philanthropic community to provide support across a number of areas – including growing community participation and providing better support for emerging and pathway athletes. There are also opportunities to generate philanthropic funding for some of the sports facility and infrastructure projects that will need to be upgraded or built for the Games. It is commonplace for major facility projects in the arts and cultural sector to be part-funded by philanthropy – with the recent \$100m raised by the Art Gallery of NSW being a prime example – and we see no reason why a similar model should not be achievable in the sporting sector if the changes proposed in this submission are achieved. ASF is committed to exploring these opportunities with the Federal and State Governments involved in Brisbane 2032.

In summary, increasing philanthropic support for sport makes sound economic sense given these trends. Under Information request 4 below, we outline a current major obstacle to giving to sport relating to the interaction of DGR and charitable status and present options for the Government to remove that obstacle.

3.3.3 However, the role of Government in encouraging philanthropy does not simply extend to the DGR framework. Another way that the Government could incentivise philanthropy in sport to help address the two macro-trends highlighted would be to explore using Federal

funds as “matched giving” to incentivise and stimulate philanthropy for specified sporting purposes.

The Commission will no doubt be aware that in other, more established, philanthropic causes, matched giving is an effective way to increase community contributions. In simple terms, Matched Giving works where one or more major donors commits a contribution that is used to “match” donations made by other members of the community for a particular campaign or cause. In this way donations are doubled – in fact research shows that matched giving achieves even greater outcomes:



Source: “The State of Modern Philanthropy” (Classy)

3.3.4 As sport is a relatively immature philanthropic cause, there is an opportunity for the Federal Government to step in and provide funding to be used as an incentive by offering it as matching for community donations made in support of policy objectives. For example – to generate support for emerging athletes, to provide access to sport for disadvantaged communities, or to contribute to sports infrastructure projects where there will be legacy community use. This would be a great example of co-contribution, or PPP (Public Philanthropic Partnerships) in action. ASF would be pleased to provide a more detailed submission on this point if there is interest in exploring the model further.

### 3.4 INFORMATION REQUEST 4: THE DGR FRAMEWORK

3.4.1 This submission has already outlined the role of ASF in acting as the umbrella DGR for donations to sport. ASF provides an efficient and effective means of enabling and facilitating tax deductible donations from private individuals and businesses to support Australian sport within the current DGR framework. It provides volunteer-run community sports clubs, who would otherwise not have the capacity to achieve or manage DGR status, with the means to offer the benefit of tax-deductible donations to their supporters in the community. Furthermore, the recent growth in donations to sport highlighted at 3.2.1 above illustrates the effectiveness of the current arrangements.

3.4.2 However, we earlier referred to a significant obstacle to increasing sports philanthropy and this relates to the inability of Ancillary Funds to distribute funds to support sporting causes under current legislative and regulatory arrangements.

3.4.3 In addressing this issue we wish to highlight a ***factual error in the Productivity Commission's call for submissions***. In the opening paragraph of Page 16 the document states: "DGR status also has implications for philanthropic giving vehicles – private and public ancillary funds.... can only direct their funds to organisations with "Item 1" DGR status." This is incorrect, or at least incomplete. As outlined at Section 2.3 above under the ATO's Model Trust Deed for Ancillary Funds, such vehicles are only able to distribute funds to an "Eligible Entity", which is defined as an entity that is both a DGR and which is charitable. As sport is not a charitable purpose, Ancillary Funds are generally unable to distribute funds to ASF for the benefit of sport. The establishment of ASFCF was intended to help address this but (as also outlined at Section 2.3) significant obstacles remain. Specifically, ASFCF can only access funds from an Ancillary Fund where the beneficiary club is undertaking a purpose that is charitable under existing legislation (for example, advancing education) and where sport is merely incidental and/or a means to achieve that purpose.

3.4.4 The current framework therefore presents an unnecessary impediment to philanthropy in sport and addressing this issue is of critical importance given the significance of Ancillary Funds in the philanthropic sector and their projected growth in the coming decade. Change needs to be made urgently if philanthropic giving to sport is to grow as needed to address the current pressures facing sport in Australia, and to achieve the beneficial impacts on community health and cohesion which sport is uniquely positioned to provide.

3.4.5 The ASF has consequently made a submission to the Federal Government (first submitted in 2019 and updated in 2021) that it should recognise "the purpose of advancing amateur sport" as charitable, by including it as a charitable purpose under section 12 of the *Charities Act 2013* (Cth). This submission has been discussed at length with the Federal Government, Treasury and the Australian Charities and Not for profits Commission (ACNC) and has the in-principle support of relevant Ministers subject to the matters outlined below.

3.4.6 It should be noted at this point that other Commonwealth countries have amended legislation to make community sport a charitable purpose, reflecting its acknowledged benefits to community health, and the ASF's submission on the matter highlights that countries such as the UK and (separately) Scotland have already legislated amateur sport as a charitable purpose. Whilst there is now in principle Ministerial support in Australia for this change (following the ASF's submission on the matter), it is recognised that there are implications both for community sports clubs and regulators that need to be considered before the legislative change could be enacted.

3.4.7 Therefore ASF is in the process of finalising a consultation process to engage community sports clubs, to educate the sector on the implications of such a change and, it is hoped, to gain endorsement for the proposal. A concern, however, is that the pressures on community sports club volunteers highlighted at Section 3.3.2 above mean that placing even minor additional regulatory or administrative burdens on community clubs at this time may be unsustainable. This is something of a Catch 22, given that charitable status could in itself elevate the status of volunteering in community sport, and help address the current difficulty in attracting and retaining volunteers.

3.4.8 Recognising amateur sport as a charitable purpose is ASF's strong preference as the means to address the current obstacle to accessing support from Ancillary Funds. This is not only because it would overcome the specific barrier contained within the ATO's Model Trust Deed, but it would also help elevate sport as a cause more generally.

3.4.9 ASF donor research shows that even among those who currently give to sport it is currently seen as "secondary" to other causes they support, which we consider is linked to its current lack of charitable status compared with other comparable philanthropic causes. ASF submits that the well-established health and community benefits of sport mean it is worthy of charitable status, and recognising this within the Charities Act would not only increase donors' propensity to give but would likely also assist in other ways eg in attracting and retaining volunteers, who are essential to the sustainability of community sport.

3.4.10 However, if the forthcoming consultation process indicates that regulatory implications for community clubs as charities would be unsustainable, then we recommend exploring with the Government other options to remove the current obstacle. One such option might be for the ATO Model Trust Deed for Ancillary Funds to define "Eligible Institutions" simply as an institution "*gifts to which are deductible under item 1 of the table in section 30-15 of ITAA 97.*" While this would not directly address the need to recognise sport as worthy of charitable status to elevate it more broadly as a philanthropic cause, it would at least facilitate Ancillary Fund distributions in support of sport going forward.

## 3.5 INFORMATION REQUEST 6: UNNECESSARY REGULATORY BARRIERS TO GIVING

As outlined above, the ASF considers that the lack of recognition of amateur sport as a charitable purpose, combined with the restrictive terms of the ATO's Model Trust Deed for Ancillary funds currently limits donor choice and flexibility insofar as providing philanthropic support to sport is concerned.

## 4. CONCLUSION

This submission makes three key points for consideration by the Productivity Commission:

- I. Sport currently receives only around 0.6% of philanthropic giving in Australia, which does not reflect its health and community benefits, nor its important role in Australian life more broadly;
- II. The current low share of philanthropic giving to sport arises from obstacles in the existing legislative and regulatory framework that result in sport being seen as a secondary cause, and which explicitly limit the flexibility of donors to support sport from Ancillary Funds if they wish to do so; and
- III. There is an urgent need to increase philanthropic funding for sport to address the severe impact of Covid-19 on community sport, and to fully leverage the opportunity presented by the 2032 Brisbane Olympic and Paralympic Games.

This submission highlights the current obstacles and presents solutions for consideration by the Commission and the Government. If these obstacles are removed, ASF's analysis indicates that philanthropic giving to sport will increase to \$300m a year by 2032 – a level comparable to current giving to the arts and cultural causes in Australia.

We trust this submission is clear and would be happy to provide additional information on any of the matters outlined if required.

Patrick Walker  
Chief Executive Officer  
5 May 2023