

AUSTRALIAN AND NEW ZEALAND SPORTS LAW ASSOCIATION (ANZSLA)

EXECUTIVE SUMMARY

1. In our submission we believe that the ASC has a pivotal role to play in relation to each of the Terms of Reference.
2. It is submitted that at the outset it is necessary to understand what is meant by the expression 'sport' so as to differentiate it from 'recreation' and other types of activities as there are financial (particularly taxation) and legal implications involved.
3. It would be in the interests of all levels of sport for Australia to have one controlling body.
4. Community sport (also known as mass participation sport) must be recognised and promoted not only for its community benefits, but also for its benefits to elite sport. Current federal, state and territory government frameworks fail to address the different needs of metropolitan and rural communities.
5. If an objective is to get more people in rural communities involved in sport, then adequate funding must reach them.
6. Cost of participation is a serious impediment to participation in many sports.
7. A proactive approach by governments, sporting associations and clubs is required to increase the effectiveness of the promotion of sport.
8. Volunteers (which includes coaches, officials, umpires, administrators) are an endangered species because of a lack of values, principles and integrity of sport.
9. The ASC should play a pivotal role in relation to the seeking, or assisting others to seek, international sporting events to be held in Australia.
10. Donations to the Australian Sports Foundation (ASF) must be tax deductible.

- 1. ANZSLA is not in a position to be able to offer comments on each of the Terms of Reference as many are outside the terms of our charter.**
2. In our submission we believe that the role of the ASC is critical to achieve each of the Terms of Reference.

3. INTRODUCTION

As a general opening comment, what is 'sport'? It is necessary to come up with a definition of sport if it is to be demarcated from recreation and other types of activities. Such a definition also needs to be supported by examples as activities such as 'extreme' sports seem to be "falling through the cracks".

There are financial and legal advantages in providing definitional clarity to the meaning of "sport", not least of which is assisting in drawing a line between what is sport (and funded) and what are games, recreation and leisure (which may or may not be funded).

Given the importance of government funding and other assistance to Australian sport and the potential taxation and other financial implications, it is submitted that it is appropriate that there be a definition.

4. TERMS OF REFERENCE

- 1. Ensure Australia's continued elite sporting success**
 - 1.1 Examine the relationship between the Australian Sports Commission, Australian Institute of Sport, State and Territory Institutes, academies of sport and regional institutes and how this relationship could deliver better athlete pathways.**

It would be in the interests of all levels of sport for Australia to have one controlling body. What Australia doesn't need is what it currently has and that is a national body with limited powers over state and territory bodies along with a duplication of functions between these bodies. The present duplication of systems and procedures does not provide a clearly delineated pathway for athletes from grass roots sport to international competition, nor is it cost effective. However, it is also acknowledged that a federal model for control of all levels of sport is not politically realistic, even in

the foreseeable future. One way of at least partially addressing this issue may be to amend the charter of the Australian Sports Commission (ASC) by changing the objects of the ASC under s 6 of the *Australian Sports Commission Act 1989* (Cth) to clarify its role in Australian sport.

It was noted in our submission in the review of the *Australian Sports Commission Act 1989* (Cth) that the Objects section of the Act (s 6) gives the impression that the ASC's primary purpose is to service the needs of elite athletes. To some extent this is reinforced by the ASC itself in its own promotional materials. There is a failure in both the Act and the ASC to give greater recognition to grass roots sport and this may well be achieved by splitting the Objects in the Act in such a way that recognition is given to each.

Consideration needs to be given to supporting the elite athlete with better educational opportunities. This means the provision of better educational pathways for elite athletes between bodies such as the Australian Institute of Sport, State and Territory Institutes, academies of sport and regional institutes with TAFE and tertiary institutions so that the transition from sport to employment is seamless. If that end is to be achieved, support mechanisms need to be put in place to assist elite athletes with their study. Examples of this approach can be seen in the football codes and cricket.

2. Better place sport and physical activity as a key component of the Government's preventative health approach

2.1 Examine Government frameworks to ensure an on-going focus on grassroots and community sport and physical activity.

Community sport (also known as mass participation sport) must be recognised and promoted not only for its community benefits, but also for its benefits to elite sport. In many instances, community sport is the first step for an athlete in their progression to local, regional, State, national and international status.

There is an impression that the ASC's primary purpose is to only service the needs of elite athletes. To some extent this is reinforced by the ASC itself in its own promotional materials. Greater recognition should be given to grass roots sport and this may well be achieved by splitting the Objects in such a way that recognition is given to each. In this regard, ASC support and assistance should be given to all sports administrators, officials and athletes and not limited in any way to just those who

participate in the programs of the ASC. In saying this we would accept and acknowledge that certain parameters will have to apply to avoid abuse and waste, but surely this can be readily addressed?

It is also felt that current federal, state and territory government frameworks fail to address the different needs of metropolitan and rural communities. While a case can be made that perhaps metropolitan community needs are at least being partially met, the same cannot be said of rural communities.

The capabilities of rural communities are far more limited than their metropolitan counterparts because they lack the numbers (of people). The net effect of this, and not in any order of importance, is that:

- rural communities have difficulty in getting good administrators. This has consequences not only in the way they plan, i.e. often from week to week rather than long term but also on their ability to plan strategically;
- federal and state governments leave sporting bodies to largely govern themselves with the result that rural communities and rural sporting bodies suffer at the expense of the bigger metropolitan regions where the numbers are;
- there are different levels of understanding by regional councils of the needs of sporting bodies compared with Metropolitan regions;
- the difficulty in rural areas of lack of recognition of cost in many minority sports, i.e., some minority sports such as hockey are very expensive to run because of the cost of equipment compared with sports such as football;
- there is a lack of appreciation that rural communities often lack the necessary skills base to even benefit from initiatives such as the ASC training programs and sites such as 'Play by the Rules' because of the difficulty in attracting volunteers;
- there is a lack of consistency in terms of development of grassroots and community sport nationwide with the states and territories all approaching the issues of such sport differently (often because of funding), e.g., Queensland sends development officers out to work with rural communities but Victoria doesn't; and
- rural communities have difficulty getting adequate numbers of volunteers to help run sport in rural communities. There are administrative issues arising out of behavioural problems within rural communities which impact on

people volunteering for a role in sport in rural communities because grudges have long life spans in rural areas.

2.2 Examine Government programs to increase participation rates in sport and physical activity, including analysis of existing programs.

If the objective is to get more people in rural communities involved in sport, then the first task is to ensure that adequate funding reaches that far down. Perhaps partial funding to rural sporting associations needs to be considered so that semi-professional or professional sporting administrators akin to those employed in many Metropolitan regions can be employed. At the moment, neither rural clubs or sporting associations are in any position to raise levies to the necessary level to ensure that such persons can be appointed. Nor do the regional councils in many instances see the need for such persons!

2.3 Identify and recommend opportunities to break down barriers to participation at junior, adult and senior ages with a view to making it simpler and easier for Australians to participate in the sport or physical activity of their choice, including for women, the disabled and Indigenous people.

Cost of playing appears to be a serious impediment to participation in many sports. Registration, insurance, clothing and equipment are rapidly escalating beyond the reach of the average family. Reduction of the cost of participation needs to be considered, either through tax incentives such as the removal of GST on some items, or benefits through health funds.

Adequate funding also needs to be made available to meet the needs of these different groups. Many of the facilities currently available, particularly in rural areas, are completely unsatisfactory and effectively act as a barrier to participation by minority groups.

Consideration also needs to be given by sporting organisations to meeting the needs of minority groups. It is submitted that there is still a resistance in many sports to cater for the needs of minority groups. A funding carrot coupled with the promotion of an inclusive sports policy through education and advertising to break down these barriers is worth consideration. Legislation can only go so far and, at the end of the day, is generally only a reactive response to the problem.

It is also perhaps worth noting that it is currently possible to interpret the Objects in s 6 of the Act of the ASC as giving insufficient recognition of and support to disabled athletes. As Australia is a signatory to the UN Disability Convention, it would be appropriate for the ASC to specifically recognise as an objective the provision of assistance to disabled athletes. If the disabled are not getting explicit recognition at this level, is it realistic to expect that participation barriers are going to be easily broken down?

2.4 Recommend strategies to increase the effectiveness of the promotion of sport by the Federal Government to better communicate positive health and activity messages to the broader community.

A proactive approach by governments, sporting associations and clubs is required to increase the effectiveness of the promotion of sport. It is suggested that a financial carrot coupled with the promotion of an inclusive sports policy through education and advertising is part of the solution. The positive aspects of sport and a healthy community get largely lost in the media and community's fascination with 'bad' news and unless the support of the media is forthcoming, it is difficult to see how the broader community is going to embrace any messages about the benefits of being healthy and participating in sport.

If the promotion of sport by the Federal Government is to be effective, it is necessary for not only the media to be supportive, but also sporting organisations and their clubs to be far more proactive in promoting the benefits of participation in their sport through positive marketing and advertising programs. Given that this involves a significant cost to many organisations that they would struggle to meet, perhaps this is a funding issue that the government needs to underwrite.

3. Strengthen pathways from junior sport to grassroots community sport right through to elite and professional sport

3.1 Examine the capacity of the system to ensure optimal and efficient delivery of the athlete and coach pathway for any given sport.

No comment.

3.2 Recommend the most effective support and recognition for the coaches, officials, umpires, administrators and volunteers who keep our community clubs alive.

There is no doubt that volunteers (which includes coaches, officials, umpires, administrators) are essential to Australian sport and that recent years have seen the number of volunteers, and the extent of volunteer involvement in sport, decline. It is essential that the ASC has as an objective promotion of the involvement of volunteers in Australian sport at all levels and in all capacities. A lack of values, principles and integrity of sport are deterring volunteers. No mention is made in the Objects of the ASC about the importance of ethical behaviour in sport and the importance of values, principles and integrity. They are fundamental attributes in society and given the importance of sport and its ability to influence behaviour generally in the community, it is surprising that they do not appear in s 6 of the Act. This should be a clearly formulated and fundamental part of the ASC's Mission to Australian sport as both a sign of support and recognition of the importance of their role.

3.3 Examine how relationships between the Commonwealth Government and National Sporting Organisations, State Sporting Organisations and Australia's peak representative bodies at key multi-sports competitions may be strengthened to deliver better performance outcomes.

The role that the ASC is to play in the future needs to be carefully identified and set out. If its role is to be broadened, then this must be reflected in its Objects.

4. Maintain Australia's cutting edge approach to sports science, research and technology

No comment.

5. Identify opportunities to increase and diversify the funding base for sport through corporate sponsorship, media and any recommended reforms, such as enhancing the effectiveness of the Australian Sports Foundation.

5.1 The role of the ASC

The ASC should play a pivotal role in relation to the seeking, or assisting others to seek, international sporting events to be held in Australia. It is submitted that its endorsement of such initiatives should certainly be clearly stated for all to see. And there is significant commercial benefit in such events being held in Australia for both the sportspeople involved and their organisations. It may well be that in actively seeking, or assisting others to seek, such events, greater funding may be available for other areas of sport if such events are financially viable.

Given the difficulties faced by Australia and Australian sport in attracting international sporting events, we suggest that the ASC's objectives should specifically record it as assisting NSOs, State and Territory governments and their agencies in bidding for and hosting such events.

5.2 Australian Sports Foundation

If this review is serious in wanting to increase and diversify the funding base for sport through corporate sponsorship, then donations to the Australian Sports Foundation (ASF) must be tax deductible.

It was noted in our submission last year in the review of the *Australian Sports Commission Act 1989* (Cth) that a current function of the ASC is to “*to raise money through the Australian Sports Foundation, or by other means, for the purposes of the Commission.*”

As against this, s 10(3) of the Act provides:

“The purpose of the company is to raise money for the development of sport in Australia.”

In practice, the Australian Sports Foundation (‘ASF’) is an extremely important body to Australian sport due to the fact that the donations to the ASF are tax deductible. This tax deductibility is a critical factor in Australian sport securing donations to assist in their programmes at both elite and community level. However, the ASF arrangements currently preclude NSOs from using this tax-deductible status to raise funds specifically for their own programs. Rather, all funds are raised for the purposes of the ASF (presumably meaning the purposes of the ASC) and any distribution of those funds to an NSO is independent of the initial source of those funds.

It is submitted that this situation is not to the benefit of Australian sport and an NSO should be free to enter into an express arrangement with potential donors and the ASF that funds donated as a result of an NSO's endeavours will be paid by the ASF to the NSO to be used for ASC approved programmes. It is also submitted that there must be accountability in return for this benefit.