POLICY PRIORITIES FOR A POST COVID-19 AUSTRALIA

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Introduction

The unprecedented health and economic challenges of the COVID-19 crisis have had a major impact on Australian charities and those they serve in the community. The future looks increasingly challenging as the economic impacts play out.

Many charities have seen demand for their services increase, whilst at the same time donations have fallen and trading income has been impacted by physical distancing rules.

Modelling undertaken by Social Ventures Australia and the Centre for Social Impact in August 2020 predicts that 14% of charities will still be at risk or at high risk of becoming unviable by September 2021 despite the extension of the JobKeeper Payment to March 2021. 180,000 jobs are at risk in the sector, as are essential services for Australians.

In response to this, Australian philanthropy is acting with urgency and purpose to support Australian charities and those they serve in the community.

When the pandemic hit, Philanthropy Australia released a public statement setting out principles for how philanthropic organisations could best respond to the crisis.

We also released 5 immediate policy recommendations for the Australian Government's consideration to grow giving and support Australian charities.

Together with our partners across the not-for-profit (NFP) sector we appreciated Government policy measures, such as the lower eligibility threshold to access the JobKeeper Payment, in support of the sector, and welcomed the extension of the JobKeeper program, with amendments, to March 2021.

We also welcomed the Government's adoption of our policy proposal to encourage additional granting from ancillary funds.

However, despite these positive steps, it is clear that it will be some time before this crisis is over. There is still a need for further support measures to assist charities to get through this crisis.

At the same time, we need to think about the kind of policies that can spur additional giving and provide more support to charities and their work as we recover, rebuild and adapt to the changed environment. We need to incentivise and stimulate more giving to support a sector which:

- ✔ Delivers a wide range of essential services and community support
- ✔ Employs 10% of Australia's workforce
- ✔ Represents 8% of GDP

For this reason, in advance of the Australian Government's Budget to be handed down in October 2020, Philanthropy Australia has released this document, 'Policy Priorities for a Post COVID-19 Australia'.

It sets out 2 urgent actions we are asking the Government to implement in order to address the immediate and ongoing impact of COVID-19 on charities and giving:

- Establishing a specialised not-for-profit loan fund, in partnership with philanthropy
- Implementing a temporary increased charitable gift deduction

It proposes 7 actions, which include new incentives and red tape reductions, which would support giving and charities in a post-COVID-19 Australia:

✔ **Creating the culture and tools to grow giving:**

- Introducing a Living Legacy Trust structure to grow bequest giving
- Encouraging legacy giving from superannuation
- Launching a National Giving Campaign to build Australia's culture of giving
- Supporting the Social Impact Investing Taskforce recommendations

✔ **Removing barriers to giving:**

- Fixing Australia's complex and outdated fundraising laws
- Cutting red tape to support the vital role of Australia's Community Foundations
- Reforming Australia's Deductible Gift Recipient (DGR) framework

It also highlights the importance of retaining what works, and avoiding any detrimental changes in the following areas:

- Maintaining existing refundable franking credit arrangements
- Maintaining the existing uncapped tax deduction for donations to deductible gift recipients
- Preserving an effective and responsive ACNC
- Protecting advocacy by charities

Philanthropy Australia looks forward to discussing these policy priorities with the Australian Government. We would welcome the Government's commitment to the implementation of these policies, to support Australian charities and those they serve in the community, as we emerge from the COVID-19 crisis.

Urgent actions to address the immediate ongoing impact of COVID-19 on giving and charities

Establishing a not-for-profit loan fund

Opportunity

A $1 billion NFP loan fund, with philanthropic first-loss provisions of $50 million, would deliver working capital in the form of low-cost loans supported by a Commonwealth guarantee, for use during the crisis and for the longer-term development of the sector.

Details

Australia's charities need new sources of working capital to support operational continuity and ongoing investment in innovation and scaling impact as they emerge from the COVID-19 crisis.

Australian philanthropy wants to use more of its assets and capability, including its balance sheet, to stimulate additional resources for positive social impact and change.

There is demand for a specialised loan program amongst many charities, with demand for loans between $25,000 to $50 million, with a payback period of up to 8 years.

Many charities have good capacity to service debt. However, the standard income stream and asset tests adopted by traditional lenders do not recognise this and do not reflect the different business models adopted by charities. Also, many charities are unused to working with traditional lenders and specific expertise is required to assess the ability of charities to service debt.

Whilst the Australian Government has introduced a 'Coronavirus SME Guarantee Scheme', it is not suitable for a large proportion of charities. Many organisations are too large and therefore do not qualify. The maximum loan amount is also insufficient, and the payback period of 5 years is too short.

The Australian Government can partner with philanthropy to address this identified gap by establishing a specialised NFP loan fund.

Philanthropy Australia has already provided a detailed proposal to the Government setting out how such a fund could work. It would involve quarantining $1 billion from the existing 'Coronavirus SME Guarantee Scheme', combined with support from philanthropy, in order to guarantee appropriately structured loans for charities.

Doing so would provide an important new source of support for charities, helping them not only to sustain themselves during the remainder of the COVID-19 crisis, but also to pivot their business models to suit the post-COVID-19 operating environment.

Implementing a temporary increased charitable gift deduction

Opportunity

During this period of economic uncertainty, Australians are finding it more difficult to give. As such, there is a need to introduce a temporary enhanced tax deduction for donations to maintain and support giving.

Details

The COVID-19 crisis has simultaneously led to a reduction in donations to charities and an increase in the demand for their services.

JBWere has forecast that as a result of this crisis, total giving will fall by around 7.1% in 2020 after rising by almost 5% over each of the previous two years. But the larger effect will likely be felt in 2021, when giving is estimated to fall by a further 11.9%, taking it back to levels not seen since 2012.

A significant decrease in giving combined with impacts on trading income means that charities are already under pressure, and this is impacting upon their ability to serve the community.

Whilst initiatives such the JobKeeper Payment are providing respite, once the payment ends in March 2021 the full impact of reduced income will hit.

In this context, an enhanced tax deduction is proposed for donations made to 'Item 1' DGR charities. This could range from 120% to 150% of the value of a donation and would be effective for the remainder of the 2020-21 financial year, with an option to extend for a further year if required.

The enhanced rate of deduction would be available up to a donations cap (to be set between $10,000 – $25,000). To the extent that a taxpayer's annual donations exceed the cap, the existing 100% deduction would continue to apply.

Philanthropy Australia has provided a detailed proposal to the Australian Government regarding this policy. We strongly believe that its temporary and limited cost to the Budget is justified given the support it would provide to charities and those they serve within the community.

Actions to support giving and charities in a post-COVID-19 Australia

Introducing a Living Legacy Trust structure to grow bequest giving

Opportunity

With the right policy settings, Australia can take advantage of the record intergenerational wealth transfer in coming years by growing giving through Living Legacy Trusts (LLTs).

Details

Australia is about to witness the largest intergenerational wealth transfer in our history, with estimates that over the next two decades $2.4 trillion is expected to pass from 'baby boomers' to the next generation.

It is expected that charities will benefit from this transfer through bequests.

However, giving by bequest is currently low – in 2012 only 7.6% of final wills had a direct charitable bequest, and charitable bequests accounted for only 2% of the total value of estates.

Living Legacy Trusts are a structure which can help grow legacy giving by introducing a new tax incentive.

LLTs involve a donor placing an asset in a trust for the benefit of a charity upon the donor's passing. Whilst the asset is irrevocably committed to the charity, the donor can still receive an income stream from the asset whilst they are still alive.

In return for irrevocably committing the asset to the charity, the donor receives a tax deduction when they place the asset in the trust, worth a percentage of the asset's value. This percentage varies with the donor's age, given that the older a donor is, the less time a charity will need to wait to receive the asset.

To enable charities to benefit from LLTs sooner, particularly in the current economic environment, an intermediary can be established to lend funds to charities and use LLTs established to benefit the charity as security.

Growing legacy giving from superannuation

Opportunity

Many people will leave substantial inheritances from their unspent superannuation. Cutting red tape and removing tax penalties will encourage more people to donate some of their excess superannuation to charity.

Details

Modelling by the Grattan Institute shows that the median retiree will leave an inheritance of $190,000 in today's dollars, or 33% of their savings at retirement, in addition to any home they own. Many will leave much higher amounts.

However, there are currently disincentives to donate such excess superannuation to charity.

Under existing laws, any funds which are distributed to a non-dependent are generally taxed at up to 15% plus the 2% Medicare Levy. Any donation of excess superannuation to a charity incurs this tax penalty.

In addition, an individual cannot use a 'Binding Death Nomination' to directly donate some of their excess superannuation to a charity. Instead, they must donate it through their estate, which makes it much more complicated.

Philanthropy Australia believes these disincentives need to be addressed.

People should be allowed to use a Binding Death Nomination to nominate a charity with DGR status to receive a bequest directly from their superannuation upon their death.

Any superannuation bequest to a charity with DGR status should be exempt from taxation, consistent with how donations from a person's income are treated during their lifetime.

Launching a National Giving Campaign to build Australia's culture of giving

Opportunity

By working with the philanthropic sector to launch a national giving campaign, the Australian Government can further enhance our culture of giving by promoting the benefits of giving and encouraging more Australians to dig deep.

Details

In order to grow giving in Australia, we need the right taxation and regulatory framework. Whilst tax incentives are not the only reason people give, they are one factor people take into account when deciding whether to give and how much.

However, based on 2017-18 data from the Australian Taxation Office, more than 45% of taxpayers with a taxable income of $1 million or more claimed no deduction for giving to a 'deductible gift recipient' (and these organisations are mostly charities).

This shows that whilst taxation incentives are important, a big part of growing giving is about creating a culture of giving.

A national giving campaign can help do this by raising awareness of giving and its benefits. Involving a variety of communication channels, such a campaign could share the experiences of those who give and their reasons, and tell the stories of the people, organisations and causes that giving benefits.

It can highlight the different ways people can give, ranging from workplace giving to establishing a private ancillary fund. It could also target different audiences – the broader public, but also individuals who can influence giving choices such as employers and financial advisers.

Philanthropy Australia believes that such a national giving campaign should be co-funded by philanthropy and the Australian Government and operate under the purview of a broader sector advisory body focused on supporting the sector to build back better.

Supporting the Social Impact Investing Taskforce recommendations

Opportunity

As Australia emerges from the COVID-19 crisis, government, philanthropy, business and the not-for-profit sectors need to take advantage of the opportunities that social impact investment provides as a way of directing more resources towards addressing complex and entrenched social and environmental challenges.

Details

Australia is a prosperous nation; however, we still face complex and entrenched social and environmental challenges. These are being exacerbated by the COVID-19 crisis, which is also exposing new problems.

No one sector can address all these challenges; rather, government, philanthropy, business and the NFP sector must work together to pool available resources, experience and expertise and direct them towards finding solutions that tackle the root causes of these problems.

Social impact investing offers an important avenue to support such collaboration, providing opportunities to blend social impact with financial returns, and thereby providing additional resources focused on achieving positive social and environmental outcomes.

In the 2019-20 budget, the Australian Government announced $5 million for the establishment of a Social Impact Investing Taskforce. The Taskforce is responsible for developing a strategy for the Australian Government's role in the social impact investing market.

In January 2020, the Taskforce delivered an interim report including three initiatives recommended to Government for immediate implementation:

- ✓ Develop evidence and data on social impact,
- ✓ Create principles for future initiatives, and
- ✓ Support capacity building and connections through an information portal.

The final report of the Taskforce, currently under development, will provide an important roadmap for how the Australian Government can better support social impact investing and what roles can be played by philanthropy, business and the NFP sector. Philanthropy Australia believes that the Government must be proactive in its response to the Taskforce's recommendations, so we can take social impact investing in Australia to the next level and maximise community benefit.

Fixing Australia's complex and outdated fundraising laws

Opportunity

Australia's framework for regulating fundraising is a mess of red tape and is badly in need of reform. Implementing a single national framework will retain protections for donors, whilst cutting administration costs for charities and allowing more funds to be used for charitable purposes.

Details

Organisations such as charities which seek to raise funds from the public, including seeking philanthropy, are subject to fundraising regulation.

Every state and territory, except for the Northern Territory, has its own fundraising requirements. These requirements vary by jurisdiction: for example, regulations differ on when and if a fundraising licence is required, for how long a licence is valid, and on reporting requirements. If a charity needs to fundraise nationally, or undertakes any online fundraising, they need to comply with seven different regimes.

For smaller groups, it can be particularly difficult to navigate these complex laws. For larger ones, resources are redirected from service delivery to compliance. The impact of this was evident during the bushfire and COVID-19 crises.

Whilst there has been talk from governments about their willingness to pursue reform, so far there has been little action. Now is the time to act.

Given that the Prime Minister has identified red tape reduction as key to his Government's strategy to support Australia as it emerges from the COVID-19 crisis, it is important that charities and those whom they serve benefit from this push. Reforming fundraising regulation is an opportunity to ensure this happens.

For this reason, the Australian Government needs to show leadership on the issue of fundraising regulation reform, and proactively work with State and Territory Governments to deliver a single national framework for fundraising regulation as a priority.

Cutting red tape for Community Foundations

Opportunity

Community Foundations are a valuable and unique form of philanthropic infrastructure, which seek to empower communities to address local challenges themselves. However, they are currently held back by red tape. To address this, a new DGR category for Community Foundations should be created.

Details

As Australia reels from the bushfire and COVID-19 crises, the vital role played by community-based grassroots organisations is abundantly clear.

Community Foundations are community-owned and managed philanthropic organisations that bring together people and resources to address local issues and support community development. For many bushfire and COVID affected communities, they have been integral in supporting the recovery process.

There are 40 Community Foundations in Australia, with 80% working in regional areas. At the end of 2018-19, Community Foundations had over $452 million in funds under management, representing permanent community assets that are able to support changing local needs into the future. During the same period, grants from Community Foundations to grassroots organisations, groups and projects in their respective local communities amounted to more than $29 million.

However, red tape currently serves to inhibit the potential of Community Foundations, meaning that they cannot make the fullest possible contribution to their communities, especially during times of greatest need.

As they generally operate using a 'Public Ancillary Fund' structure, this means that they are precluded by the tax laws from receiving any grants from 'Private Ancillary Funds'. Private Ancillary Funds are a common form of private and family foundation, providing nearly $400 million in grants in 2017-18. Community Foundations are therefore cut off from accessing this large and growing source of philanthropy.

In addition, as Public Ancillary Funds, Community Foundations can only make a distribution to 'Item 1' DGRs. This restriction is particularly problematic in regional areas, where very few organisations have such status, making it harder for Community Foundations to support them.

In order to support the important work of Community Foundations right across Australia, a new DGR category should be created for Community Foundations within Division 30 of the *Income Tax Assessment Act 1997* (Cth).

Reforming Australia’s Deductible Gift Recipient framework

Opportunity

Australia’s DGR framework is a source of red tape and makes it hard for many charities to access philanthropy. Reforming the DGR framework would broaden and simplify access to deductible gift recipient status, better allowing for charities to access philanthropy and better positioning the charitable sector to support future community needs.

Details

Australia has just under 58,000 charities, but because of the DGR framework set out within the tax laws, not all these charities are eligible for DGR status. Based on 2019 data, there are only around 30,000 entities with DGR status. Most, but not all, of these are charities. The practical implication of this is that nearly half of Australia’s charities can’t accept tax deductible donations or a grant from a Private or Public Ancillary Fund.

Many charities ‘fall between the cracks’, with their only option to seek a ‘specific listing’ in the tax laws – a long and complicated process, requiring a legislative amendment and with only a remote possibility of success.

For example, an institution whose principal activity is to promote the prevention or the control of diseases in human beings is eligible for DGR status under the category of a ‘Health Promotion Charity’. However, because of the way disease is defined, an institution whose principal activity is to promote the prevention of injuries of human beings (such as through accidents) is not eligible for DGR status.

Charities with multiple purposes and activities often need to be endorsed under multiple DGR categories, creating a red tape burden.

The former Not-for-profit Sector Tax Concession Working Group recommended that DGR status should be extended to all registered charities. To contain the cost of this reform, it also recommended that charities whose purposes are the advancement of religion, or education through child care or primary and secondary education, would only be able to apply DGR funds towards activities falling within other charitable purposes.

This recommendation still represents a sound blueprint for DGR framework reform which would help grow philanthropy and cut red tape.

Retaining what works

Proactive reform to improve the taxation and regulatory framework for philanthropy in Australia is essential to support and grow giving as we emerge from the COVID-19 crisis. It is also important that we retain existing policies which support giving and underpin the broader resilience of charities.

Specifically, this includes:

- **Maintaining existing refundable franking credit arrangements**

  Refundable franking credits are a vital source of income for philanthropic organisations and enable them to provide more grant funding to charities.

  The availability of refundable franking credits is relevant in the case of dividend income and is consistent with the income tax exemption which philanthropic trusts and foundations receive. This is because refundable franking credits ensure that no income tax is paid either directly or indirectly by the philanthropic trust or foundation.

  Any harmful changes which limit the ability of philanthropic organisations to access refundable franking credits will result in a large decrease in the amount of grants that philanthropy can provide to charitable causes. This would have major ramifications for charities and the broader community.

  Philanthropy Australia therefore strongly believes that the existing refundable franking credit arrangements applying to philanthropic organisations should be retained.

- **Maintaining the existing uncapped tax deduction for donations to DGRs**

  Australians benefit from an uncapped tax deduction for donations to DGRs, meaning that there is no limit to the amount of donations that can be claimed as a deduction from a person's income when calculating taxable income.

  This provides an important incentive for larger scale giving, particularly amongst high-net-wealth individuals.

  Any harmful changes which seek to cap the amount of donations that can be claimed as a deduction would reduce giving, negatively impacting charities and those they serve.

  Philanthropy Australia therefore strongly believes that the existing uncapped deduction for donations to DGRs should be retained.

- **Preserving an effective and responsive ACNC**

  The Australian Charities and Not-for-profits Commission (ACNC) plays a vital role as the regulator of Australia's 58,000 registered charities.

  It works to support public trust and confidence in Australian charities, provides education and guidance which promotes good governance within charities, and seeks to ensure that red tape burdens on charities are minimised.

  The ACNC needs to be supported in order to remain an effective and responsive regulator. This includes prioritising the implementation of the Australian Government's response to the *'Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislative Review 2018'* once the immediate COVID-19 crisis passes.

- **Protecting advocacy by many charities**

  Advocacy is an essential element of the work of many charities. By seeking to change government policies and practices, it targets the root causes of social and environmental challenges, rather than just addressing the symptoms.

  It is an important way that charities can use their expertise and experience working on the frontline in communities right across Australia to give voice to those on the margins of society and whose interests may otherwise be drowned out by more powerful groups.

  For this reason, it is positive that Australian law, in particular the *Charities Act 2013* (Cth), recognises advocacy as a charitable purpose.

  It is important that the Australian Government clearly and unequivocally supports the advocacy role of charities and avoids introducing any policies which would stifle such activity.

About Philanthropy Australia

Philanthropy Australia is the national peak body for philanthropy and is a not-for-profit membership organisation with a more than 600-strong membership. Our mission is to represent, grow and inspire an effective and robust philanthropic sector in the community.

Our Members are trusts and foundations, businesses, families and individuals who want to make a difference through their own philanthropy and to encourage others with their giving. To find out more about Philanthropy Australia, visit **www.philanthropy.org.au**

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