COMMUNITY COUNCIL FOR AUSTRALIA

Submission to:

The Treasury

and

The Hon. Michael Sukkar MP

Assistant Treasurer

CCA Federal Budget Submission 2021/22

January 2021

Introduction

This submission outlines nine measures the Community Council for Australia (CCA) believes will significantly strengthen Australia's not-for-profit (NFP) sector to support our communities and drive real economic savings for government over the coming financial year and beyond. These measures have been informed by consultation with CCA members (listed in *Attachment A*) and key organisations in the NFP sector.

It is important to note that this submission does not override the policy positions outlined in any individual Federal Budget submissions from CCA members.

The content of this submission includes: a brief background to CCA; a listing of proposed measures; an overview of the current issues for the NFP sector; further details about the costing of proposals; and a conclusion.

CCA acknowledges that 2021 will need to be a year that emphasises recovery for Australia as we adjust to the impacts of COVID-19. A government committed to building economic and social resilience across Australia would actively encourage and invest in more effective and efficient charitable organisations delivering better outcomes for our communities.

If Australia is to be a just, fair, resilient and productive society, there needs to be a genuine commitment to supporting reforms across the charities and not-for-profit sector (NFPs) from government and other key stakeholders.

CCA welcomes this opportunity to provide input into the Federal Budget process and to engage in detailed discussion about any issues this submission raises.

The Community Council for Australia

The Community Council for Australia is an independent non-political member-based organisation dedicated to building flourishing communities by enhancing the extraordinary work undertaken by the charities and not-for-profit sector in Australia. CCA seeks to change the way governments, communities and not-for-profits relate to one another. It does so by providing a national voice and facilitation for sector leaders to act on common and shared issues affecting the contribution, performance and viability of NFPs in Australia. This includes:

- promoting the values of the sector and the need for reform
- influencing and shaping relevant policy agendas
- improving the way people invest in the sector
- measuring and reporting success in a way that clearly articulates value
- building collaboration and sector efficiency
- informing, educating, and assisting organisations in the sector to deal with change and build sustainable futures
- providing a catalyst and mechanism for the sector to work in partnership with government, business and the broader Australian community to achieve positive change.

Our success will drive a more sustainable and effective charities and not-for-profit sector in Australia making an increased contribution to the well-being and resilience of all our communities.

Summary of proposed budget measures

The following proposals have been developed through extensive discussions and feedback from CCA members and other key stakeholders. Each measure would deliver real benefits to government over the longer-term and strengthen communities (proposed measures are outlined in more detail on page four).

1. **Provide Deductible Gift Recipient (DGR) status to all registered charities with an initial exemption of organisations for childcare, primary and secondary education, and the advancement of religion.**

2. **Create more incentives for giving as Australia experiences the largest ever inter-generational wealth transfer over the coming two decades.**
    a. **Living Legacy Trusts**
    b. **Opt-out workplace giving provisions**
    c. **Superannuation charitable investment options**

3. **Fix fundraising regulations.**

4. **Boost sector investment and productivity by increasing certainty in government funding, concessions, incentives and regulations.**

5. **Develop a Charities Transformation Fund to support sector capacity development through; adoption of technology, staff training and development, research and evaluation, and infrastructure improvements.**

6. **Develop a Charities Investment Fund that could provide charities reduced interest loans for impact investment or longer-term line of credit options.**

7. **Support a one-stop-shop registration process to enable volunteers to be registered and insured more quickly without the red tape of multi-jurisdictional compliance.**

8. **Introduce a targeted 'estate duty' for people with estates valued at over $10 million with appropriate incentives for donations to charities, safeguards relating to family businesses and farms, and mitigation of any potential adverse impacts.**

9. **Review the generous tax concessions provided to gaming, catering, entertainment and hospitality income for mutual organisations, especially licensed clubs.**

Context: not-for-profit reform

COVID-19 highlighted the critical role played by charities and Not-for-profits (NFPs) in Australia. The government acknowledged this role in extending a modified form of JobKeeper payments to charities as well as supporting increased giving during the pandemic. These measures have been important to many charities, but 2021 is still going to be incredibly challenging for the charities and NFP sector.

Research conducted by the Centre for Social Impact (CSI) and Social Ventures Australia suggests around 30% of all charities are now facing serious questions about ongoing viability. CSI's latest survey of the for-purpose sector (Pulse of the For-Purpose Sector | CSI) found that while 8 in 10 organisations had increased demand, 77% of organisations agreed or strongly agreed that the recent events have put considerable strain on their organisation's finances, 85% reported a reduction in revenue even with JobKeeper, and 52% were worried about their ability to continue to provide services in the current environment.

Some charities will have to hibernate programs and services in the hope of being able to re-establish their income streams in the coming years. For many charities, COVID-19 has meant increased costs, a decline in revenue, reduced access to volunteers, and increased demand for community-based services.

While generalisations across all charities are very difficult within the COVID-19 context, the one certainty is that COVID-19 will have a negative impact on thousands of charities and thousands of workers within the charities sector. The significance of this impact should be acknowledged in the Federal Budget.

The charities and NFP sector encompass over 600,000 organisations - from large to very small - and employs well over 1.3 million staff (around 10% of all employees in Australia). Australia's 55,000+ charities collectively turn over more than $147 billion each year and hold close to $300 billion in assets.

These facts tell only a small part of the story. The real value of the charities sector is often in the unmeasured contribution to Australian quality of life. Charities are at the heart of our communities, building connection, nurturing spiritual and cultural expression, and enhancing the productivity of all Australians. Collectively, they make us a more resilient society.

In Australia there have been various initiatives seeking to: promote social enterprise; reduce compliance costs for NFPs; encourage a diversification of financing options to build a more sustainable funding base; streamline and refine the regulation of NFPs and charities; establish less bureaucratic reporting requirements while building community transparency; increase philanthropy; promote impact investing; and increase sector performance measurement. CCA supports all these activities.

The establishment of the ACNC has proved to be a positive step towards red tape reductions, increased transparency, and trust in the community by prospective volunteers and donors. But there is still a lot of work to do in streamlining and improving the regulation of charities in Australia.

While the history of the NFP sector is framed by growth and reform, the current level of individual philanthropic giving as a percentage of income has still not recovered to the pre-GFC highs of 2009. The revenue available to governments is effectively falling in real terms against a backdrop of increasing demands and higher community expectations. Competition for fundraising and services has increased. COVID-19 has only compounded these challenges.

Given the size of the sector and its critical role in our community, the Federal Government should prioritise strategic investment in the charities and NFP sector. Supporting the proposals in this submission will ensure the government receives a better return on their investments, strengthens communities, improves well-being, builds connectedness and resilience, and increases productivity for all Australians.

Description of proposed budget measures

1. Provide Deductible Gift Recipient (DGR) status to all registered charities with an initial exemption of organisations for childcare, primary and secondary education, and the advancement of religion.

The present system of determining Deductible Gift Recipient (DGR) status largely through the Australian Taxation Office (ATO) and Departmental listing favors larger charities that can afford lawyers and lobbyists to assist the progression of their applications. Many smaller NFP and charities do not have the capacity to apply for DGR status, and therefore cannot access the community support that comes when donations are tax deductible. There are up to six government agencies involved in determining DGR status. <u>While reforms have been proposed, they have not been acted upon.</u> DGR is currently a complex, costly and inequitable system – with less than half of all charities having DGR status. The proposed reforms to DGR are a step in the right direction, but it is still difficult to justify the distribution of DGR eligibility given the arbitrary and ad hoc manner in which it has developed. It makes good policy sense that all donations made to registered, complying charities should be tax deductible. This is the practice in comparable countries like the UK and Canada.

The ACNC determining charitable status and DGR will deliver a fairer system and reduce red tape. This policy is economically feasible with the initial exemption of organisations for the advancement of religion and education reducing the likely implementation costs to approximately $130 million per annum. Excluding all schools and all churches for automatic DGR eligibility makes this measure affordable. At the same time the intent is not to deny DGR, so existing DGR exemptions for ministers of religion and other concessions based on religious and educational purposes would continue to apply.

This measure is estimated to be revenue neutral in the first instance. Initial projected expenditure of approximately $130 million is offset by past savings in ending uncapped FBT entitlements.

2. Create more incentives for giving now as Australia experiences the largest ever inter-generational wealth transfer over the coming two decades.

a. Living Legacy Trusts

Over the next two decades $2.4 trillion in wealth is expected to pass from Australian 'baby boomers' to the next generation. It is expected that charities will benefit from this wealth 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 involve a donor placing an asset in a trust for the benefit of a charity upon the donor's passing. The asset is irrevocably committed to the charity, but the donor can still receive an income stream from the asset while 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 may vary with factors including the donor's age. There are also models where intermediaries may be established to manage the donations and enable charities access to the donated funds prior to the passing of the donor. This immediate access is particularly important given the current economic climate.

This measure encourages giving and enables intending donors to act on their bequest intentions at the time of greatest need (rather than time of death). It extends the policy intent of DGR concession, while supporting donors to maintain a self-supporting income stream.

This measure will have minimal impact to revenue over the next two years, with its impact increasing as the structure becomes more attractive over time. Modelling undertaken by Deloitte Access Economics in 2016 indicates a cost to revenue of $870 million over 10 years. This will be offset with growth in legacy giving, with the same analysis estimating that over 10 years, for each $1 of tax concessions provided, donations would increase by $1.68.

b. Opt-out workplace giving provisions

When in place, 'opt out' systems of workplace giving have ensured much higher levels of success in workplace giving programs.

Less than 2% of working Australians currently donate to charity from their pre-tax income through workplace giving. When in place, the 'opt out' approach to workplace can result in 60-70% of employees in an organisation participating. With 'opt-in', average participation rates are less than 5%. Uncertainty over provisions in the Fair Work Act are an impediment to more widespread use of the 'opt-out' approach. Clarifying the Fair Work Act would help increase the number of Australian employees participating in workplace giving. Growing to 10% of employees donating 0.35% of their pre-tax income, would raise over a quarter of a billion dollars each year through workplace giving. This is a realistic target based on local and international experience that would increase philanthropy and the engagement of Australians in the broader NFP sector.

CCA anticipates there would be limited additional costs to government in this measure.

c. Superannuation charitable investment options

Using employee super contributions to drive improvements for communities is increasingly being adopted around the world. CCA support a model similar that applying in France where all employees are given the option of investing 5-10% of their superannuation into 'solidarity organisations' (the equivalent of our charities). In 2008 the French government regulated that all super funds needed to provide this option to employees, and since that time the amount invested has grown to over $5.5 billion. This has stimulated social entrepreneurship, created opportunities to achieve social impact, improved the capital base and capacity of solidarity organisations.

The success of the French 90/10 rule shows what could be achieved if Australia chose to provide employees with some limited choice about how their superannuation contributions are invested. If just 2% of the MySuper funds were invested this way it would generate around $8.5 billion, or enough to significantly reduce homelessness by investing in social housing initiatives that could assist 50,000 Australians struggling to maintain secure and appropriate housing.

This measure could be transformative in encouraging the charities sector to find ways of establishing social enterprises that strengthen our communities. It would also link into the work of the Social Impact Investing Taskforce and provide a boost to impact investing across the charities and NFP sector.

This measure has minimal government impact as costs are almost non-existent – it is simply about enabling a different use of a very small part of Australia's $2 trillion superannuation investment pool.

3. Fix fundraising regulations.

This measure would save millions of dollars a year in red tape, duplication and dysfunctional compliance activities that provide no benefit to the community. Simply ensuring fundraising activities are covered by the Australian Competition and Consumer Commission (ACCC) and noted through the ACNC would ensure any deceptive or misleading conduct associated with charitable fundraising, whatever the platform, could be closed down and perpetrators prosecuted.

CCA and many other groups have repeatedly called for the fix fundraising solution to be implemented, but still charities languish in a bygone era of accountability that has little relevance or effectiveness, and costs charities millions in wasted effort.

It is now two years since a Senate report recommended harmonization of fundraising regulations. The need to address the barriers created by fundraising regulations has also been highlighted in a recommendation from the recent Bushfire Royal Commission. No real progress has been made.

The recent leadership of the Australian Treasurer to progress a deemed authority to fundraise for ACNC registered charities is a step in the right direction but needs to be expanded to deliver nationally consistent fundraising regulation.

There is no cost to government in ensuring appropriate application of Australian Consumer Law.

4. Boost sector investment and productivity by increasing certainty in government funding, concessions, incentives and regulations.

This measure is focused on achieving a more stable financial and regulatory framework for all not-for-profits, particularly in relation to government funding and interaction with the sector. CEO Forums across the country run by CCA with the support of key organisations have clearly showed that uncertainty of government funding and the failure to cover the full direct and indirect costs of delivering services is a critical barrier to investment in the future sustainability of organisations. CSI's research found that only 39% of government grants were reported to cover all costs of service delivery. The government needs to actively consider initiatives such as:

- an agreed notice period of six months prior to the ending of any major government contract, incentive or concession, with limited exemptions for cases of fraud, other criminal actions, etc.
- increasing the length of government contracts where possible to at least five years
- more transparent and accessible processes for reviewing the performance of NFPs
- more transparent and accountable processes for government funding decisions relating to NFPs
- a commitment to covering the full direct and indirect costs of delivering services.

These measures would all boost investment in organisational capacity across the NFP sector.

At the centre of many concerns across the NFP sector is the ability of small and large community organisations to deal with an increasingly uncertain future. While governments are not responsible for all disruptions and challenges to the NFP sector, increasing certainty in government funding is a critical measure that would build capacity and effectiveness. This is especially important given the uncertain times imposed by COVID-19.

CCA anticipates these measures would produce savings with very limited (mostly internal) outlays.

5. Develop a Charities Transformation Fund to support sector capacity development through; adoption of technology, staff training and development, research and evaluation, and infrastructure improvements.

The Australian government invests billions of dollars in charities and not-for profits to provide critical services and supports to communities across Australia. Unfortunately, there is often little allocation of funding to enable funded organisations to improve their services through capacity development in critical areas like technology, staff training and development, research and evaluation, and infrastructure.

While the government should not be solely responsible for sector capacity, it is important to acknowledge that increased productivity will only come if there is increased capacity to improve organisations and the way they operate.

In the area of technology for instance, COVID-19 has clearly highlighted a digital divide between charities – those with the capacity and know how to develop and adapt their services online and in other innovative ways and those without this capacity who have had to hibernate programs and services in the hope of finding additional funding in the future.

A transformation fund would enable charities to respond to what has become a challenging operating environment and improve services to communities, especially in this time when many communities are experiencing higher needs for support from charities.

CCA believes at least $300 million should be allocated to this fund.

6. Develop a Charities Investment Fund that could provide charities reduced interest loans for impact investment or longer-term line of credit options.

Many charities have had to deal with a sudden loss of income during COVID-19. CSI's Pulse of the For-Purpose Sector research found that 85% of organisations surveyed reported a reduction in revenue. For some, it is only a temporary situation that will pass as the economy and capacity of people to gather together is restored.

Access to bridging finance is limited within charities and few have established lines of credit to smooth out inconsistent or lumpy income streams.

Establishing a fund that could provide longer term 5-to-10-year loans at subsidised interest rates – possibly with potential first loss risk partly underwritten through philanthropic backing – would enable charities with relatively strong balance sheets to continue to operate and maintain service capacity, even when temporary cash flow issues may otherwise have forced cutbacks and retrenchments.

CCA believes many charities would benefit through such a fund which could also underwrite a level of impact investment within the charities sector.

CCA anticipates the cost to government of supporting this fund would be an initial outlay of $500 million which would be invested in the charities sector and provide a small financial return over time.

7. Support a one-stop-shop registration process to enable volunteers to be registered and insured more quickly without the red tape of multi-jurisdictional compliance.

COVID-19 has had a devastating impact on levels of volunteering across the charities and NFP sector with over two thirds of volunteers reducing or ceasing their volunteering activities.

Getting volunteers back is proving a challenge, not the least because of the complexity involved in ensuring all regulations, checks and regulatory requirements are met.

CCA believes it is past time to establish a national system for registration of volunteers, a one-stop-shop where various regulatory requirements and checks for people to work with children etc. can be streamlined into what effectively would become a volunteering passport.

Given the need to encourage volunteers back into their volunteering roles post the pandemic, this measure could be aligned with the proposed Re-invigorating Volunteering Action Plan outlined by Volunteering Australia in their Pre-Budget submission.

Individual charities will still need to run their own recruitment, training, and preparation programs for volunteers, but removing the broader regulatory requirements would make volunteering much more feasible.

The cost of this national program would be less than $2 million per annum as it would largely draw on existing capacity.

8. Introduce a targeted 'estate duty' for people with estates valued at over $10 million with appropriate incentives for donations to charities, safeguards relating to family businesses and farms, and mitigation of any potential adverse impacts.

National estate duties exist in many countries including: the United Kingdom, Germany, Italy, Belgium, the Republic of Ireland, France, the Czech Republic, Canada and the USA. Not only do these duties provide substantial government revenue, they also increase philanthropy by offering relief from estate duties for any money left to charity. The Henry Review drew on this international experience in supporting estate duties as a taxation measure. Among other benefits, estate duties can apply a small brake on growing levels of inequality in our communities.

Until 1979, many Australian governments gained substantial income through various forms of death or estate duties.

Australia's growing gap between rich and poor, and the gap between government income and demand for government supported services, can both be partially addressed by applying a form of estate duty on the richest 1% in our communities.

A targeted 35% estate duty on all estates over $10 million (with appropriate exemptions) would raise substantial new government revenue and stimulate philanthropy.

ATO figures suggest over 25,000 people have assets above $10 million. If 4% of these families paid 35% in estate duties, it would equate to a minimum revenue of $3.5 billion.

9. Review the generous tax concessions provided to gaming, catering, entertainment and hospitality income for mutual organisations, especially licensed clubs.

The mutuality principle that rightly applied in the late 1800s in Australia is no longer appropriate or consistent with existing taxation arrangements, particularly for organisations involved in gaming. Large licensed clubs that act as gaming venues should not be able to treat over 75% of their income as tax free, especially when they have not satisfied the basic requirements of being a not-for-profit organisation that exists to provide a public benefit. As pointed out in the Not-for-profit Tax Concessions Working Group Report (May 2013), concerns with the current application of the mutuality principle include:

– integrity concerns about member and non-member receipts;

– competitive neutrality concerns where mutual organisations are trading in competition with taxable businesses;

– social policy concerns about significant gambling and hospitality receipts of some organisations, which are not subject to income tax at the Commonwealth level; and

– concerns about private member benefit.

It is recommended, on public benefit grounds, that the tax law should be amended to treat all member and non-member income of mutual organisations as assessable for taxation purposes in line with normal income tax principles.

If this recommendation is not supported, all income from gaming, catering, entertainment and hospitality trading activities of mutual organisations should be treated as assessable.

It is difficult to justify the hundreds of millions of dollars of tax concessions provided to large licensed gaming clubs based on the mutuality principle. It is time to review these concessions taking into account any unintended consequences on mutual organisations that do provide a real benefit to members.

CCA anticipates this measure could generate significant additional government revenue.

Budget implications (costings)

CCA acknowledges the need to ensure an effective economic framework for all Australian governments that serves the needs of our various communities. We also acknowledge that COVID-19 has created new challenges for governments and for budgets.

In considering the specific budget implications of the nine key measures outlined in this submission, CCA has taken a relatively conservative approach to the projection of new income and expenditure for government. Given the complexity of some of the proposed measures and the lack of data about others, the initial costs and benefits outlined in this submission represent a starting point for further discussion and more detailed economic modelling.

CCA believes the measures proposed in this budget submission will over time generate significant revenue as well as long-term savings for governments, NFPs and the communities they serve.

Conclusion

This submission promotes Federal Government measures to strengthen the charities and NFP sector and deliver real economic and social benefits for governments and our communities.

Never has there been a stronger case for investment in the charities and NFP sector to build more resilient communities through greater engagement in our society and our economy.

Many individual not-for-profit organisations (including CCA members) will be seeking to have the Federal Government fund specific measures for the benefit of their own causes and communities. Most of these budget proposals from the not-for-profit sector are important and have real merit.

It is important to note that CCA does not see increased giving as a cost to government but a benefit to the communities we all live and work in. It is counter-productive to treat increased philanthropy and social impact investment as a government loss of potential tax income or 'foregone revenue'. The whole community benefits when individuals or organisations choose to direct their resources into strengthening communities, increasing economic and social activity, and improving health and well-being. This is particularly the case if the money involved avoids the significant transfer costs of moving into, through, and out of government. Philanthropy and social investment are about encouraging greater ownership of local issues by enhancing the role of charities and NFPs.

COVID-19 has presented us all with many challenges. Inequality continues to rise in Australia. We need fairer ways of generating income for government and more impact investment to strengthen our communities. Estate duties and the French 90/10 rule are two examples of sustainable policies that have the potential to be transformative.

The NFP sector is too large and too important to be left on the margins of economic debates and major policy reforms within Australia. Government investment in enabling NFPs to be more efficient and effective will ultimately deliver stronger, more resilient and productive communities across Australia.

The Federal Budget is the most important policy document a Federal Government produces. Recognising the role of the charities and NFP sector through implementation of the measures outlined in this submission will translate into a fairer budget that will increase sector productivity and growth, benefitting all Australians.

Current Membership – Community Council for Australia *Attachment A*

Adult Learning Australia

Alcohol, Tobacco and Other Drugs Association ACT

Arab Council Australia

Australian Conservation Foundation

Australian Council for International Development, Marc Purcell, CEO (CCA Board Director)

Australian Environmental Grantmakers Network

Australian Scholarships Foundation

Australians Investing in Women

Barnardos Australia

Beacon Foundation

Brotherhood of St Laurence, Conny Lenneberg, CEO (CCA Board Director)

Camp Quality

Carers Australia

Centre for Social Impact, Prof Kristy Muir, CEO (CCA Board Director)

Chain Reaction Foundation

Christians Against Poverty

Community Based Support (Tas)

Community Bridging Services (CBS)

Community Broadcasting Association of Australia

Community Colleges Australia

Connecting Up

Drug Arm Australia, Jody Wright, CEO (CCA Board Director)

Endeavour Foundation

Ethical Jobs

Everyman

Exodus Foundation

Feanix Foundation

Fitted for Work

Foundation for Alcohol Research and Education

Foundation for Young Australians

Fragile X Association of Australia

Good Samaritan Foundation

Good2Give

Hammondcare

Hillsong Church, George Aghajanian, CEO (CCA Board Director)

InfoXchange

Justice Connect

Kilfinan Australia

Life Without Barriers, Claire Robbs, CEO (CCA Board Director)

Lock the Gate

Mater Foundation

McGrath Foundation

Menslink

Mission Australia

Missions Interlink

Non Profit Alliance

Our Community

OzHarvest

Painaustralia

Philanthropy Australia

Pro Bono Australia

Queensland Water & Land Carers

Relationships Australia NSW

Ronald McDonald House Charities

RSPCA Australia, Richard Mussell, CEO (CCA Board Director)

Saba Rose Button Foundation

SANE

SARRAH

Save the Children, Paul Ronalds, CEO (CCA Board Director)

Settlement Services International

Smith Family

Social Ventures Australia, Suzie Riddell, CEO (CCA Board Director)

St John Ambulance

Social Leadership Foundation

Starlight Foundation, Louise Baxter, CEO (CCA Board Director)

Sydney Children's Hospital Foundation

Ted Noffs Foundation

The Centre for Volunteering

The Shepherd Centre

Volunteering Australia

Wesley Mission

Workplace Giving Australia

World Vision Australia

World Wide Fund for Nature Australia

YMCA Australia