



PHILANTHROPY  
*Australia*

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**Patrons**  
Sir Gustav Nossal AC CBE  
Lady Southey AC

Dear Chris,

**Re: Exposure Draft: Improving the Integrity of Public Ancillary Funds**

Thank you very much the opportunity to comment on the above draft legislation, and for your willingness to consult with Philanthropy Australia and the philanthropic sector, as part of Treasury's review of the regulations of Public Ancillary Funds. Several of our Members have asked that we express our appreciation to Treasury for its willingness to listen to and consider the views of the charitable sector.

Philanthropy Australia has two comments on the Exposure Draft. The first is on the issue of portability. While the draft Guidelines for Public Ancillary Funds make provision in item 50 for the transfer of assets in their entirety between ancillary funds under certain conditions, we can see nothing in the legislation which makes this possible (Item 1.63 allows the creation of a new ancillary fund but not transfer to an existing ancillary fund). This creates an apparent disjunction between the intention as explained in the guidelines and the exposure draft in the area relating to trustees' governance duties and capital distribution. In order for trustees to act upon the very welcome provision for portability in the Guidelines we suggest that the Exposure Draft be amended accordingly. Our understanding of the exposure draft is that many clauses relate equally to private and public ancillary funds. Given the principle of portability should apply to both forms of ancillary funds (as both source and recipient), the legislation should allow two way transfer.

Philanthropy Australia's second comment is on identification of Public Ancillary Fund status in the Australian Business Register (section 426-104 in the Exposure Draft). We feel it is important to specify the abbreviation which will identify Public Ancillary Funds and to ensure that there is no confusion with Private Ancillary Funds (which are currently listed in the ABR's lookup tool as 'DGR 2 – PAF'). Philanthropy Australia has been using the abbreviation 'PuAF' to refer to Public Ancillary Funds.

Philanthropy Australia will be making a further submission in response to the Draft Guidelines in due course. However, I can comment that we are strongly supportive of the direction the Guidelines are taking. We very much appreciate the opportunity to make comment and would be very pleased to continue to work with Treasury to finalise the Guidelines. Please do not hesitate to contact me if you have any questions or require further clarification.

Yours sincerely

Dr Deborah Seifert  
Chief Executive Officer