PHILANTHROPY
AUSTRALIA

PA response to the PC draft report

PHILANTHROPY AUSTRALIA'S SUBMISSION TO THE PRODUCTIVITY COMMISSION FINAL

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Contents

Key Messages & Executive Summary

1. A note of appreciation and support for key recommendations

Philanthropy Australia (PA) would like to thank the PC for the open and consultative approach they've taken to developing their draft report. PC Commissioners and the staff team have engaged us repeatedly to discuss policy reforms, and engaged widely across a range of sectors.

PA supports a number of the recommendations.

- Establishment of an independent philanthropic foundation controlled by – and for the benefit of – Aboriginal and Torres Strait Islander communities.
- More transparent reporting of corporate donations, which will increase corporate donations by helping to ensure corporations give and volunteer in ways consistent with the expectations of their staff, customers and the broader public.
- The ability for ancillary funds to meet minimum distribution requirements over three years, creating more scope for structured giving to support larger, more transformative charitable projects.
- Improved data in fields such as bequests, volunteering and corporate giving.
- While PA supports expansion of DGR to all charities (see our May 2023 Submission, p.19-22), we welcome the PC's recommendations to expand DGR to more charities. We appreciate the rigorous, principles-based approach taken to developing this reform, including its aim to focus expansion in ways that maximise community benefit. The reforms will benefit a suite of charities, including those with multiple purposes, undertaking advocacy, or working on animal welfare, injury prevention and public interest journalism. With modest revenue foregone, they also provide the government with a sound framework for reform and something practical and achievable it can implement.

2. A broader, more ambitious framework for the final report.

PA respects the PC's economic framework for considering policy reforms – both in the aggregate sense (chapter two on market failure and the role of government) and in its approach to specific issues (such as the thoughtful approach to DGR reform in chapters 4-6). We agree measures should not be recommended where they favour one sector of the economy (whether an industry sector, philanthropy or charity) but impose a net detriment to community-wide welfare (for instance because they produce large revenue losses relative to the benefits they create, impose significant economic distortions, or go beyond the appropriate role of government).

PA believes the PC could recommend a broader set of measures to lift giving that would also deliver an improvement in community-wide welfare. We suggest that in the final report, the PC:

1. **Provide the Government with a suite of practical, high-impact policy options that would deliver a step-change increase in the culture and practice of giving in Australia.**

- The Terms of Reference indicate that – in the context of the Government's historic commitment to develop a strategy to double giving to charity by 2030 – the primary purpose of the inquiry is to identify reform options to lift giving to 'provide a roadmap to achieving this objective.'
- Dr Leigh's 'double giving' commitment was intended as a 'lighting rod' for action. More than just a numerical target, it was about achieving a step-change increase in the culture and practice of giving in Australia because the evidence shows there is so much more we can achieve. Despite high and rapidly rising wealth in Australia, with around 21,000 Australians holding net wealth of $30 million-plus and wealth rising among the Top 200 from $209 billion to $563 billion between 2016 and 2023:
    - Australia lags behind comparable nations, with giving as a percentage of GDP around 0.81 per cent, compared to 1.84 per cent in New Zealand and 2.1 per cent in the United States.
    - The percentage of Australians giving to charity is falling rapidly.
    - By the standards of leading nations, relatively few wealthy Australians give substantially.

    - As Leigh and Terrell chart in *Reconnected*, there has been a significant decline in community participation and social capital in recent decades.
    - Our policy environment is less favourable for giving than in leading nations.
- Philanthropy delivers major benefits for society – as distilled in PA's May 2023 submission and the PC's draft report. We have an opportunity to drive transformational change.
- However, the draft report provides few policy options to lift giving and collectively would do little to increase giving. Even in relation to the most substantive reform recommended – expanding DGR – the Commission notes '…the reforms are only likely to make a small addition to overall giving.'
- There are no recommendations in a suite of areas that could markedly lift giving. For instance:
    - There are no recommendations and limited analysis on community foundations, measures to strengthen the charity sector and establishing Living Legacy Trusts.
    - Despite the massive potential of super bequests to lift giving – and do so while *increasing* revenue - a reform option to introduce super bequests is only briefly mentioned, and few of the substantial benefits are clearly identified and detailed. Risks are extensively canvassed, but without an attempt to detail how they could be mitigated.
    - While the PC recognises culture is pivotal to driving national giving - 'There are good reasons to expect that social and cultural norms play an important role in attitudes towards expected giving and actual giving outcomes (p.96)' – no major reforms are developed to create a more generous and giving culture in Australia.
    - The draft report would leave Australia without a single, comprehensive national giving data set on giving and volunteering to inform policy and the work of philanthropy and charity, and no substantive governance arrangements to drive stronger collaboration between government and philanthropy, and in turn, much stronger social impact per philanthropy dollar expended.
- PA is concerned the PC is indicating limited reform is needed.
    - The draft report states: 'The Productivity Commission estimates that total giving to all registered charities will be about $26.5 billion in 2029-30 if the average nominal growth rate (7.9%) of this measure of giving continues [a doubling from $13 billion in 2021].' The PC states 'Keeping the status quo is also an option available to government, and it is likely that giving, particularly donations by individuals, will continue to grow under the status quo.' (p.68)
    - PA does not consider it helpful to point out that, during a period of high inflation, giving will double in nominal terms over a decade. A more credible measure of doubling giving would be to do so in real terms, or as a percentage of GDP (which would still leave us short of the US and New Zealand). This would require that Australia increase its giving to in the vicinity of $35-40 billion by 2029-30. Still, arguments about the numerical target miss a more important point.
- The key point is to consider how the final report can deliver the greatest improvement possible in community welfare. PA is concerned a huge opportunity to create a stronger society could be less than fully grasped. We urge the PC in their final report to provide the government with a suite of high impact policy options aimed at delivering a step-change increase in the culture and practice of giving in Australia. It has been rare that governments have given philanthropy such substantive consideration – so this might be the only opportunity to optimise system-wide policy settings for giving and volunteering in a generation or more. Let us grasp this rare opportunity to create a more generous and giving Australia, with greater support to address our biggest challenges, including more support for people in greatest need.

2. **Further identify, develop and reflect in the report the 'yes' case for high-impact reforms, including how they can be designed to overcome risks, work effectively and efficiently, and deliver a net community benefit.**

In many cases in the draft report – such as DGR reform – the policy option and the case for and against reform is well articulated. In a few cases, such as super bequests and the voluntary choice to donate as part of the tax return, the case for reform is less than fully developed, while costs and risks are extensively canvassed. PA would like to see more attention given to identifying the case for action, how risks can be mitigated, and a policy option designed to work effectively. More detail on these arguments is provided at <u>Attachment One: Further Developing the Case for Reform.</u> In a nutshell:

- **A voluntary choice to donate as part of the tax return:** This reform may have the potential to deliver tens of billions each decade, making it one of the two very high impact potential reforms available to lift giving, along with super bequests. The PC has indicated that 'DGR giving' is welfare enhancing, so if this reform can enhance such giving, (all other things being equal), it too is welfare enhancing. The analysis in the draft report focuses almost exclusively on why the reform should not occur. As detailed in Attachment One, PA does not agree with the analysis outlined. Given the magnitude of the potential benefits, we believe the PC could do more to consider the 'yes case' for action, how the risks it identifies could be mitigated, whether benefits are likely to outweigh costs, and how a scheme could be designed to lift giving and be welfare-enhancing.
- **The choice to bequest through super:** The report underplays the benefits of reform by noting it would make the process simpler, moves to a section entitled 'There should be a high threshold for changes to superannuation', highlights a suite of risks and then calls for views from stakeholders. PA believes that, in stakeholder consultations, and in the final report, there could be a greater focus on:
    - Developing and reflecting the case for reform, including that it would likely deliver at least tens of billions in increased giving by 2060 at no revenue cost (indeed revenue would rise).
    - Mitigating the risks identified and solving implementation challenges.
    - Assessing the magnitude of benefits against costs and risks in determining whether to recommend the reform. Our research and engagement with the super industry indicates there are implementation challenges and costs to be considered – and we identify these and show how they can be mitigated (see Box 1.1 in the detailed report below). However, in aggregate, the risks are modest relative to the large benefits likely to ensue from reform, so we think modest technical challenges or costs should not stand in the way of reform. As a further safeguard, we recommend further engagement with the super industry before implementation of the reform.
- **Removing the tax penalty on super bequests**: PA will no longer advocate to the PC for removal of the tax on super, as the PC has come to a firm position that 'There is no case to change tax arrangements for superannuation bequests to charities.' PA agrees the PC has made strong arguments for this position, including that it may be inequitable to allow tax free bequests to charity, but not to adult dependents. However, reflecting the views of our membership, we note some strong arguments for reform that were not canvassed in the draft report.
    - **Consistent tax treatment:** It is not consistent logic to state that in one context, charitable giving should be encouraged through a tax break and is welfare enhancing, but in another context, a tax penalty should be imposed on charitable giving to protect community welfare.
    - **A less – not more - costly way to give:** The revenue cost would be 17 cents per dollar compared with each person's top marginal tax rate for DGR giving. A policy costing would only count the cost of the change from the status quo, not 'load up' all the previous ways super is concessionally taxed.
    - **Encouraging charitable giving:** International evidence on the effects of tax on charitable giving indicates that removing the tax penalty on super bequests would increase giving.

3. Broaden the scope of the economic framework and policy tools to lift giving.

The PC writes: 'There are three main areas where policy changes to encourage philanthropy are likely to increase the wellbeing of the Australian community – the personal income tax deduction to incentivise giving, the regulatory framework for charities and public information for donors. (p.10)'

The PC's Framework		
The personal tax deduction	Regulation	Public information for donors

This approach constrains the capacity to lift giving and improve community welfare. A wider framework could create more scope to capture all the key policy drivers of giving.

Broaden the framework to include key drivers of giving			
Institutional economics (culture & social norms)	Behavioural economics	Governance	A better environment for charities
• Giving campaign • Nudge in tax return • Super bequests	• Nudge in tax return • Super bequests • Annual data set	• Govt-philanthropy collaboration	• The charities agenda

- **Institutional economics**: Government incentives can only fulfil their potential where people see it as part of their identity and culture to contribute to the community. The proportion of Australians giving to charity is rapidly falling and the proportion of wealthy Australians significantly embracing philanthropy is radically lower than in leading philanthropic nations such as the United States. Measures to address culture are essential if Australia is to achieve a step-change in giving.[1]
- **Behavioural economics** – Research confirms that behavioural prompts have been effective in increasing giving. The PC could consider this evidence in its final report and the potential of high value options to lift giving, such as a voluntary choice to donate as part of the tax return process.
- **Governance** – The PC could consider simple governance reforms that would create stronger impact from collective investments by government and the philanthropic sector.
- **Creating a sound environment for charities.** The PC could lift giving and its effectiveness through measures to build capability and create a more favourable operating environment for charities.

3. PA's proposed changes to the final report

PA's approach

PA is seeking to be highly constructive in its proposed changes to the final report, making sure we 've listened to and are responding to the clear messages in the PC's draft report. This includes:

- **Accepting clear recommendations and findings:** As set out in our May submission, PA believes DGR should be extended to all charities, but we will not repeat these arguments, given the rigour and care the PC has undertaken to formulate its recommendations. Similarly, while we believe the case to remove the 17 per cent tax penalty on super bequests is strong, we recognise the PC considered the matter and reached a conclusion.
- A**voiding a shopping list.** PA's original submission had 18 measures to lift giving. Here we focus on seven, selected on the basis of: potential to lift giving, while enhancing community-wide welfare (exemplified most strongly by super bequests and the choice to donate at tax time); and ability to be implemented (eg a national giving and volunteering data set).
- **Adjusting recommendations:** Most of our recommendations have been adjusted to take into account the PC's analysis.

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[1] PA's main submission in May made five recommendations aimed at creating a more generous culture – a national schools program; a National Giving Campaign; and the philanthropic, business and charity sectors making contributions to the 'double giving' mission, formalised in regular compacts with the Federal Government.

Our recommended policy changes are:

1. **Super bequests:** The PC recommend that the Federal Government it announce its commitment to give Australians the choice to make a bequest through super, but proceed only after consultation with the superannuation industry to ensure implementation challenges are effectively addressed.

- It would remove unnecessary regulatory barriers, and make it easier for people to choose to give to charity through a simple process.
- It would likely deliver hundreds of billions in additional giving across the 21st century.
    - Treasury forecasts show many trillions of super balances will pass at death this century. If just a modest proportion goes to charity, it will amount to hundreds of billions in increased giving.
    - Giving would be spurred as: the process would be easy; giving to great causes would be marketed by charities and super funds; and people would be prompted across their lifetimes to consider super bequests (such as at the start of their career, or in later years when many people are in a financial position to give and considering leaving a legacy to society).
    - Impact Economics provided two scenarios with credible assumptions to provide the PC with a likely ballpark of increased giving and found over the period to 2060, the reform could generate between $64.6 and $260.3 billion in additional income for charities <u>in current dollars</u>. Australians donated $13.4 billion to charity in 2021. The modelling indicates that in the year 2060 alone, the reforms could yield between $4.8 and $21.9 billion for charity.
- It would be a highly efficient form of giving, with no revenue cost. Indeed, revenue would rise, where giving to charity (taxed at 17 cents) crowded out giving to child dependents (tax free).
- It would help spread wealth and opportunity to all Australians. Super assets – at $3 trillion and rising rapidly – are concentrated in the accounts of higher income earners. Tax concessions also accrue overwhelmingly to high income earners. Super bequests can be a crucial mechanism to transfer funds from Australians more fortunately placed to those in greater need.
- PA has made a contribution to addressing implementation challenges (See Box 1.1 below).

2. **A voluntary choice to donate as part of the tax return process:** The PC recommend the Federal Government provide Australians with a voluntary choice to donate as part of the tax return process.

- The reform addresses clear policy issues: building a more generous culture through prompting and establishing a national custom; and assisting to make giving simpler and easier.
- The PC confirms DGR giving is welfare enhancing. Therefore, if this reform lifts such giving, all things being equal, it too is welfare enhancing.
- With $30 billion returned each year, it has potential to deliver several billion a year, making it one of the top two most transformative giving reforms available alongside super bequests.
- Evidence confirms behavioural prompts can be highly effective in lifting the proportion of people giving and the amount they give.
- Provided it is well communicated, it will be well received by the Australian people (as indicated by Redbridge polling). Over time, people will accept it as positive custom to help those in need.

3. **Community Foundations (CFs):** The PC recommend the Federal Government work with the CF and broader philanthropic sectors in a dedicated policy process to Develop a Strategy to Strengthen and Grow Australia's CF Network**.**

- Australia's CF sector has considerable momentum – growing strongly, with DGR reform imminent and a strengthened peak body – but the sector remains well below its potential and what has been achieved in leading nations like Canada.
- Now is a great time to develop a strategic policy framework, identifying the key roles of CFs, government and philanthropy, considering the international evidence, and exploring co-investment opportunities and priority reforms, as detailed in the specific PA-CFA submission to the PC, ***<u>The opportunity to grow Australia's community foundation network: A strategic roadmap</u>*****.**

- CFs can address key policy issues: galvanizing local people to solve local problems, helping to address the decline in social capital and community participation; developing innovative solutions to key social challenges; and helping better target philanthropic resources to areas of need.

4. **A National Giving Campaign:** The PC recommend the Federal Government and the philanthropic sector collaborate to develop, co-fund, trial and evaluate a three-year National Giving Campaign. If successful, the government could increase its investment, with the campaign sustained over 10-15 years, the timeframe likely to be needed to achieve lasting behavioural and cultural change.

- PA and the PC agree culture is a key driver of giving outcomes, yet a key problem in Australia. National giving is low, the proportion of the population giving is rapidly declining and relatively few wealthy Australians give compared to leading philanthropic nations such as the United States.
- At present, the PC roadmap for government contains no substantial initiatives to address culture.
- National campaigns are a proven method of shifting national behaviour and culture in many fields, but evidence on giving campaigns is mixed. A trial with rigorous evaluation therefore makes sense.
- Government co-funding is justified as this is an area of market failure - without more information, awareness, prompting and a culture of giving, contributions to charitable organisations will be underprovided. Government involvement can help ensure a robust trial and evaluation, and assist it coming to a view about the merits of longer-term funding. Government's also have more capacity to contribute - $685 billion in annual revenue (2023-24 MYEFO, p.339) compared with a little more than $2 billion being distributed annually in structured giving vehicles.
- PA has made progress on a campaign to meet the PC's key design principles (see 1.4 below). By targeting lucrative markets – such as wealthy Australians, business and financial advisers – it is highly likely to spur giving many fold the modest investment needed to run the campaign.

5. **Strengthening the Charity Sector:** The PC recommend the Federal Government implement a package of reforms to strengthen the charity sector, including 1) establishing an Office of the Not-For-Profit Sector to drive reform; 2) building capabilities in areas such as leadership, evaluation and innovation; 3) Establishing a national strategy to create a top-class cadre of talented, professional fundraisers; and 4) creating a better operating environment (Fix Fundraising, cutting red tape, full funding for government service provision and longer contract lengths).

- Lifting the effectiveness of the charity sector will lift national giving by giving donors greater confidence their money will be used well.
- Charities already make a massive contribution to millions of people in our society, at a magnitude bigger than many realise – charity workers make up around 11 per cent of the workforce. Measures to lift their capability will therefore create much stronger social impact, and make a meaningful contribution to national productivity.
- Governments have – for decades – promised to better partner with charities. The time for action is long past due.

6. **A National Giving and Volunteering Data Set:** The PC recommend a single agency – such as the ABS – bring together the various data sources on giving into a single, comprehensive national data set on total giving and volunteering and its key components, published annually.

- PC recommendations to improve data collection by the ABS (volunteering), ACNC (bequests) and ATO (corporate giving) are welcome, but leave Australia with incoherent data arrangements - multiple agencies reporting on components of data at different times, with no comprehensive 'single source of truth' on total national giving and volunteering and its key components.
- Compiling a single data set would help guide policy, provide a frequent 'nudge' to the community – including business - to lift giving, and help guide the work of philanthropists and charities.
- This should be undertaken by government. The key players collecting the information – ABS, ATO and ACNC – are government agencies and have the relevant expertise. They are trusted sources of information. Giving data is a public good, of use to policymakers, charities, philanthropists,

businesses and volunteers right across our society. Provision of public information in a suite of economic, social and environmental fields has primarily been the preserve of government.

- By obviating the need for numerous additional reports to fill data gaps, the comprehensive data set would deliver better national giving and volunteering information at lower national cost.

7. **Governance arrangements to drive stronger impact:** The PC recommend governance arrangements that facilitate regular engagement between government and philanthropy to drive greater social and environmental impact, including: a Prime Minister's and/or Treasurer's Giving Council – annual meetings with sector leaders from business, philanthropy and charity to discuss progress with the double giving agenda and outline plans for the coming year; and portfolio level engagement – learning from the Investment Dialogue for Australia's Children, rolling out similar engagement between Ministers and/or senior officials and the philanthropic sector in other portfolios such as First Nation's justice, the arts and the environment.

- Without collaborative arrangements, a massive source of social impact is being left untapped.
- Government and philanthropy have similar goals and complementary strengths. In particular, philanthropy has flexibility to trial social innovations, while government is better positioned to adopt better practices system-wide. Working together, we could achieve much stronger impact per philanthropic dollar expended.
- To date, innovation through government-philanthropy collaboration has worked largely through serendipity. Simple, non-onerous collaborative structures could help drive innovation across all social and environmental portfolios on a more consistent basis.

4. Responses on key issues

1. Changing minimum distribution rates.

The majority view of PA members is that Australia's long-term giving will be higher if minimum distribution rates are not changed.

- The key driver of increasing donations is to increase the number of ancillary funds. Increasing the minimum distribution amounts could impede this growth, harming long-term giving outcomes.
- While the number of PAFs has risen to more than 2,000 since 2001, a common view is that, given our level of national wealth – including having around 21,000 ultra-high-net-worth individuals, we should aspire to having more than 20,000 PAFs. Growing the number of PAFs, rather than extracting more from existing PAFs, should therefore be the priority at this point in our nation's giving history.
- Imposing a minimum distribution rate that meant the corpus would be steadily eroded would mean less long-term giving than a rate that allowed ancillary funds to operate in perpetuity.
- US evidence showed a 6 per cent rate resulted in the closure of 15% of funds. A shift to 5 per cent has struck the best balance between getting maximum funds to charities as early as possible and allowing funds to maintain real returns sufficient to operate in perpetuity (detail below).

2. Removing DGR for school buildings.

The majority of PA members expressing a view on this topic believe that DGR for school building funds should be retained as:

- Education is pivotal to productivity, opportunity and equity in our society.
- The funds provide a significant community benefit. Donations by families and alumni are often a way of 'giving back', with support for school infrastructure benefiting children right across the school, often for generations to come. Indeed, a significant minority of donors are friends and alumni donating to the school long after their children have departed. Many donors contribute to infrastructure that is not finalised until after their children have left the school. Many schools also make their buildings and facilities available for community use.

Detail on PA's proposed changes to the final report

1. Reforms we'd like to see recommended in the final report

1.1 The choice to bequest through superannuation

Recommendation

1. **The PC recommend that the Federal Government:**

- **Announce its commitment to give Australians the choice to make a bequest through super**: Allow Australians to bequest some of their remaining superannuation (funds remaining when people pass away) to a nominated charity, through an instruction to their superannuation fund (rather than having to follow a complicated legal process including the need to leave instructions in their will).
- **Proceed only after consultation with the superannuation industry to ensure implementation challenges are effectively addressed.** Engage the superannuation industry to discuss super bequest reform and seek their input prior to the reform being implemented, as the industry will have insights from practice as to how implementation challenges can best be addressed.

2. **In considering whether to recommend this reform we ask that the PC:**

- **Undertake greater analysis to identify and reflect the benefits of reform:** Most particularly, we think it important that the PC reflect a position on: 1) The likely broad magnitude of increased giving. While there is no way to predict the future with anything approaching specificity, our analysis indicates increases in giving are likely to be in the hundreds of billions by the end of the century. 2) The revenue gains that would accrue, as these too could be large (see below). As super bequests would not attract a tax deduction, they'd be a highly efficient form of giving. Avoiding revenue losses also avoids risks the PC identified if the 17 per cent tax were to be removed, such as reduced revenue that could mean less government funding for charities.
- **Proactively consider and detail how challenges/risks can be mitigated:** Building on our May Submission and the Impact Economics report, we offer further advice on mitigating risks below in Box 1.1: Addressing Implementation Challenges.
- **Assess the benefits against the costs and risks:** PA believes the benefits are very substantial and the costs and risks – even taken as a whole – are limited, making the case to recommend super bequests very strong. As an additional safeguard, we recommend further engagement with the super industry on how best to implement the reform, prior to implementation.

The Case for Reform

1. **Removing unnecessary regulatory barriers.**

- As the PC describes in its draft report, the process for bequesting through super is complicated and uncertain – people require a legal will and an administration process and then need to hope their wishes will be respected.
- The process can be made simpler – directing that, on your death, your super fund allocate an amount or proportion of your remaining funds to a nominated charity.

2. **It's the people's money. They should have the choice to give remaining funds to charity, and that choice should be made as easy as possible.**

- Government legislation making it challenging for people to give their money to charity through super bequests is an excessive restriction on the ability of people to use their money as they choose. In order to maximise choice and take up, this choice should be made as simple as possible, available through each person's super fund.

3. Hundreds of billions for charity to support Australians in greatest need.

The logic behind PA's position that the increase in bequests is likely to be very large is as follows:

- Treasury in its *Retirement Income Review* (July 2020) forecast superannuation balances at death will increase from $17 billion in 2019 to $130 billion by 2059 in 2018-19 dollars. Many trillions of death benefits will pass over the 21st century, so if just a modest proportion goes to charity, it will amount to hundreds of billions in increased giving.
- Giving would be relatively modest in the early years as the reform needs to be implemented, people need to become aware of the option, then nominate a charity, then die and then the money needs to flow to charity.
- We would expect giving to grow rapidly across the 21st century as:
  - The process can be very simple – people can instruct their super fund by filling in a form. Behavioural economics studies confirm giving is spurred significantly where the process is made simple.[2]
  - Giving to great causes through super bequests would be marketed by charities and super funds.
  - People would be prompted multiple times across their lifespan to consider the reform (including in young, idealistic years when joining super, and in later years when many people are in a financial position to give and considering leaving a legacy to society). Studies confirm prompts increase giving – for instance, prompting people developing their wills to consider philanthropy up to triples the percentage giving and up to doubles the average amount donated.[3]
- In order to seek to ensure these potential very large gains in giving were considered by the PC and Government, we commissioned Dr Angela Jackson and Dr Emily Millane from Impact Economics and Policy to make broad estimates of the possible magnitude of future giving, with two scenarios, both based on reasonable assumptions,[4] including that super bequests, having effectively been locked out by red tape, would grow in line with trends in broader bequesting. They found:
  - Over the period to 2060, the reform could generate between $64.6 and $260.3 billion in additional income for charities in current dollars.
  - Australians donated $13.4 billion to charity in 2021. The new modelling indicates that in the year 2060 alone, the reforms would yield between $4.8 and $21.9 billion for charity. For more detail, see their full report, *Charitable Superannuation Bequests: Making Giving Easy*.
- We believe the report by Dr Jackson and Dr Millane is a highly credible and proactive effort to identify the possible gains from a reform that could offer very substantial benefits, particularly for people in greatest need.
- The PC's response to date has been to include Box 8.6 in the draft report providing a critique of the Impact Economics work. We think it is important that the PC now turn its attention to actively considering the potential large increase in giving and coming to its own broad view,
- We note the good point raised by the PC that the Impact Economics report does not factor in substitution effects.
  - We believe substitution effects are likely to be limited as: such a simple means to bequest does not yet exist in Australia; the complicated option available – through wills – has low take up; and people are unlikely to substantially reduce giving from their young adulthood onward on the basis that they may make a super bequest decades later when they die. This isn't how giving occurs across the lifecycle. People at any point can generally not predict their future economic

[2] Ideas 42, *Behaviour and Charitable Giving: 2019 Update*, p.13.

[3] UK Behavioural Insights Team, *Applying behavioural insights to charitable giving*, 2013, p.22,23.

[4] For more on the methodology, see Impact Economics and Policy, *Charitable Superannuation Bequests: Making Giving Easy*, 2023, p.19 and Appendix One. The conservative estimate accounted for a tiny behavioural response to the increased simplicity of the process, with the more optimistic scenario incorporating a stronger response; the more conservative estimate included a major response to the government's efforts to increase the spend-down in retirement; and both scenarios incorporated a response to removing the tax on super bequests.

    circumstances. For this reason, people who are inclined to give tend to give incrementally across their lifetime, according to what they can afford at the time.
  - The report was not aiming for scientific precision. Rather it was attempting to demonstrate based on reasonable assumptions that the lift in giving from super bequest reform is likely to be very large.
- Some may highlight an additional reason why bequests could be lower than expected.
  - To date, significant funds have been passing at death as people have been dying with most of their super – typically 90 per cent – intact.
  - The Government, through the Retirement Income Covenant, is now encouraging super funds to work with people in their retirement phase to educate them about their super and encourage them to draw down more in retirement. This could mean less funds available for bequesting.
  - For this reason, the conservative estimate in the Impact Economics modelling assumed a 50 per cent draw down in retirement, a big drop from 90 per cent. Even accounting for this large drop, and other conservative assumptions, the conservative estimate was still $65 billion by 2060 <u>in current dollars</u>.
  - In considering this issue in coming to its own conclusions about the potential broad magnitude of death benefits to pass in the future, we suggest the PC take into consideration powerful forces that lead to people conserving their superannuation assets:
    - Super is concessionally taxed so people tend to draw down other sources of income before turning to super.
    - As people don't know how long they'll live, many spend conservatively to ensure they have funds available in their later years.
    - Some Australians are motivated to bequest remaining funds to their families.

4. A highly efficient, cost-effective form of giving.

- Bequests are a particularly cost-effective means of charitable giving because donors do not receive a tax break in return for their bequest.

5. Revenue would increase significantly over the long-term from an efficient source.

- Money bequested through super is taxed at up to 17 cents in the dollar. Where such bequests partially displaced funds otherwise to be distributed to non-adult dependents (which are tax free), they would create additional government revenue.
  - Note that where such bequests displaced funds otherwise to be distributed to adult dependents, there would be no impact on revenue, as both are taxed at up to 17 cents.
- Without knowing the split between funds going to child versus adult dependents, we can't be clear about the magnitude, but, as the PC identifies in Box 8.6, very large sums could be involved.

6. Spreading wealth and opportunity to all Australians

- Australia has a large amount of its wealth in superannuation assets, which are north of $3 trillion and rising rapidly.
- Wealth among the Top 200 has increased from $209 billion in 2016 to $563 billion in 2023, or from an average of $1.05 billion in 2016 to $2.8 billion in 2021. Most super tax concessions accrue to high income earners. Super bequests can be a crucial mechanism transferring funds from Australians fortunately placed to those in greatest need.

As a society, we need to make a clear choice: Do we wish to see all this wealth pass to future generations, maintaining wealth and privilege for those most fortunately placed, or do we wish to see some of this money used to support Australians in greatest need, so opportunity is more evenly shared in our country?

BOX 1.1: ADDRESSING IMPLEMENTATION CHALLENGES AND OPPORTUNITIES

1. The mechanism for super bequesting.

The mechanism can be simple – making an instruction to the super fund through a death nomination.

2. How to create certainty and limit costs: Implications of super bequest reform for the binding death nomination process, the quantum of complaints, and costs for super funds and trustees.

PA believes the PC makes important points here:

- The current system for handling remaining super funds is complex, for instance, including binding death nominations lasting three years, non-lapsing death benefit nominations, and even non-binding death benefit nominations.
- In 2022-23, there were 599 complaints related to death benefits from all sources.

The risk is that allowing charitable bequests in this system would lead to an increase in complaints and additional costs for super funds and trustees.

PA believes consultation with the super industry is an excellent way to develop options to create more certainty through the binding death nomination process, including for bequests to charities. In advance of that consultation, we make the following observations:

- Super funds could create certainty for trustees and significantly limit complaints and costs by allowing members to choose non-lapsing death benefit charity nominations.
- There is an argument for the whole system to shift to non-lapsing death benefit nominations to handle all funds remaining in super at death. This would give trustees certainty, radically reduce complaints, and place responsibility for bequesting where it belongs – with the super member. This is largely the framework operating for wills, where people decide what to do with their own money. Super funds could play a role in reminding members to update their nominations when their life circumstances change.
- Legislation could also make charity bequesting an option for super funds, so only those who consider it a net benefit would pursue the option.
- Even if the existing system were retained, the likely magnitude of any rise in complaints due to charity nominations would impose costs radically lower than the massive net benefits of the reform, in particular the large increase in giving to support Australians in greatest need.

3. What if the nominated charity no longer exists?

Again, the Government should consult the super industry and specialist lawyers on options here but PA notes:

- Super members could be asked to nominate a list of back up options in their order of preference – charities that would receive the funds should the nominated charity no longer exist.
- If all the charities ceased to exist, remaining funds could flow to nominated beneficiaries.

4. Other implications for super funds and trustees

Along with challenges for super funds and trustees, super bequests would provide benefits:

- **Competitive advantage for super funds through ESG and market positioning:** Some super funds are attracting market share with a business model that emphasises having positive impact in the community, such as through ethical investment strategies. First movers in the sector would attract additional business from customers and attract talented staff who feel pride in supporting super funds committed to building a stronger society.
- **Increased community support for the sector as a whole:** Many in the Australian community would warmly welcome the generous work of super funds, helping to strengthen their social licence.
- **Facilitating transformational change** for Australians in greatest need, through the tens of billions raised.

- **Democratising giving:** Super bequest reform would position more Australians to participate in the joy and pride of giving.

5. **Safeguards for members and dependents**

Super bequests do not impact a member's accumulation of funds or funds drawn down in retirement, as they involve bequesting funds after a person is dead.

Protecting dependents is clearly very important.

- We can expect bequests to largely occur in families with the means to support charity, as well as provide generous support to dependents, from remaining super and/or other assets.
- It is also important to address another critical equity risk – that the explosion of wealth at the top end of Australian society will simply be passed on to their advantaged dependents, rather than at least partially shared to help create opportunity for people in greatest need. The ban on charity bequests makes this very difficult to achieve through super under current rules.
- There may be a need for considering extra safeguards, having regard to: on the one hand, the need to ensure minimum provision for dependents, and in particular children, from super and the broader estate; and on the other, the desirability to provide maximum freedom to give to charity, especially among those most fortunately placed.

6. **Reception by superannuation fund members**

The PC notes 'It would particularly welcome perspectives from superannuation fund members.' In a poll of more than 2,500 Australians conducted in November 2022, Redbridge found 75 per cent support for the reform, with just 5.8 per cent opposed and 19.2 per cent neutral or not sure. This was the highest support for any of the reforms tested in the polling. As evidenced by responses in six focus groups run by Redbridge, most people told of super bequests rapidly agree with the idea, seeing it as self-evidently sensible, as typified by these statements:

"Well, I actually thought [a super bequest] was something that you could easily do. I didn't realise it was so difficult. I think that making it more accessible is a great idea."

"I think it sounds great. More people would definitely do it if it was easier."

7. **Alignment with the purpose of super.**

The Government's proposed objective for super is 'to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way.' PA strongly agrees superannuation is a crucial system, enabling millions more people to live out their retirement with reasonable incomes. The super bequest proposal is not inconsistent with the core purpose of super: It has no impact on retirement incomes as funding would only pass to charity after the person has passed away. The reality is that people die with superannuation savings intact, so policy cannot simply consider the retirement phase. Trillions of funds passed on at death will flow in the 21st century. Enabling people to give some of their remaining funds to charity as simply as possible is a fair and socially positive thing to do.

8. **Alignment with the Retirement Income Covenant**

The Retirement Income Covenant places a positive obligation on superannuation fund trustees to assist members in or approaching retirement to improve their retirement outcomes, including by spending down their super. This is not inconsistent with the proposed super bequest reform. While it could lead to a larger percentage of funds being spent down, aggregate sums remaining at death will still be very large, and super members should still have a simple process available to them to donate remaining funds to charity, should they choose to do so.

1.2 A voluntary choice to donate as part of the tax return process

Recommendation

1. **The PC recommend the Government provide Australians a voluntary choice to return some or all of their tax return to a nominated charity, where they can afford to do so.**
   - **Simple and timely:** As people neared completion of their tax return, a prompt would appear informing them of their estimated tax return and inviting them to provide some or all of their return to a nominated charity from a drop-down menu in their tax return lodgement. It is critical that this can be accommodated with just a few clicks - behavioural economics has demonstrated that the take up of 'nudges', including to give, is crucially dependent on the process being simple and offered at the key decision point.[5]
   - **Communications to support implementation:** In time, this 'nudge' will become an accepted part of Australia's national culture – a valued annual national ritual where we consider extra giving at tax time. In the implementation phase, the reform would be a change to a long-accepted practice, so a communication strategy will need to ensure all Australians understand the process – notably that it is entirely a voluntary choice – and the goal – to help fellow Australians in greatest need.
   - **Risk mitigation:** To avoid the risk that the final return is less than estimated, people could be given the option to confirm their donation when their return is final.

The Case for Reform

1. **The reform addresses clear policy problems.**

<u>**Culture:**</u>

- The PC has identified that social and cultural norms play an important role in attitudes towards expected giving and actual giving outcomes.
- Australia lacks a culture of giving present in leading giving nations – the percentage of Australians giving is falling rapidly and the percentage of wealthy Australians who give is a little more than half that in the United States. Reforms to create <u>a culture and regular practice of giving</u> are critical, as government incentives alone won't optimise Australia's giving effort.

<u>**Simplicity**</u>

- Research shows a key impediment to giving is where the process is not simple, but instead involves red tape or effort beyond what people would like to provide. As one study found:

  'Even minor inconveniences can depress giving. In a door-to-door fundraising campaign (n = 1,536), volunteers asked households to support a local charity that provides blankets to families in need. Solicitors explained that holiday cards would accompany the blankets funded by donors. They told the control group that cards had been pre-written, but gave the treatment group the option of writing messages. Contrary to the researchers' hypothesis, households in the treatment group were 20% less likely to donate. They conclude that the opportunity to write a card may drive up the cost of giving in multiple ways: 1) more social pressure to accompany the personal gesture with a larger gift amount, 2) increased time to complete a transaction, and/or 3) additional need to make two decisions—whether to give, and whether to write a card—rather than one (Chuan and Samak 2014).'[6]
- By providing simplicity, the reform also overcomes the red tape involved with giving, and facilitates choice for people to give to charities they value. Studies show that making it easier to donate encourages participation. For instance, in one study (n = 25,000), researchers added pre-filled bank transfer forms to some solicitation letters and gave people the option to donate with a credit card

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[5] See: https://www.gov.uk/government/publications/applying-behavioural-insights-to-charitable-giving

[6] Ideas 42, *Behaviour and Charitable Giving: 2019 Update*, p.13.

over the phone. People who received these additional tools were 26% more likely to respond, compared to those who received only a solicitation letter (Rasul and Huck 2010).[7]

2. **A prompt to consider donating at tax time would - over time - embed a valued national custom, where we consider providing extra support for people in need, where we can afford to do so.**

- Many Australians could afford to give some or all of their tax return back to charity. This reform would prompt more people to give, particularly if it could be achieved simply and quickly.
- Behavioural insights literature shows people are more inclined to give away something they haven't yet pocketed – 'a windfall' – than if they have to give anew, where giving is more likely to perceived as 'a loss'. Particularly for wealthy Australians, a healthy tax return could be perceived in this light.
- Of course, for many Australians, the tax return is needed for essential living costs, so the return will be seen as a critical legal entitlement, not a windfall, and they will not be in a position to give.

3. **The reform is likely to substantially lift giving.**

- Over 14 million people lodge a tax return each year in Australia. The average refund is just over $2,800 each (among the two-thirds who get a return), resulting in a collective refund of more than $30 billion.[8] In a wealthy country, we might expect several billion in additional net giving to occur each year, even after substitution effects, or tens of billions per decade.

4. **The reform is likely to be welfare-enhancing for the community as a whole.**

- The PC has indicated it views the tax concession for giving as being welfare enhancing. It follows that if this proposed reform is effective in increasing such giving – and does not have major downsides – it too is welfare enhancing.

5. **A major body of evidence confirms behavioural nudges have been highly effective in increasing philanthropic giving.** More specifically, prompts to give at a favourable point in time have been shown to lift giving.

- As part of The Alaskan 'Pick.Click.Give' campaign, tailored messaging on a postcard led to a treatment group being 4.5 per cent more likely to donate some of their annual dividend from the state's oil production each year and give a 20 per cent larger donation than the control group.[9]
- The UK Behavioural Insights Team tested options to lift bequests in wills. In the baseline group, will writers did not discuss philanthropic bequests. In the first treatment group, individuals were asked: "would you like to leave any money to charity in your will?" (the 'Plain Ask' intervention). In the second treatment group, they were asked: "many of our customers like to leave money to charity in their will. Are there any causes you're passionate about?" (the 'Social Norm' intervention). The 'Plain Ask' more than doubled the percentage donating and the 'Social Norm intervention more than tripled the percentage donating and doubled the average donation.[10]

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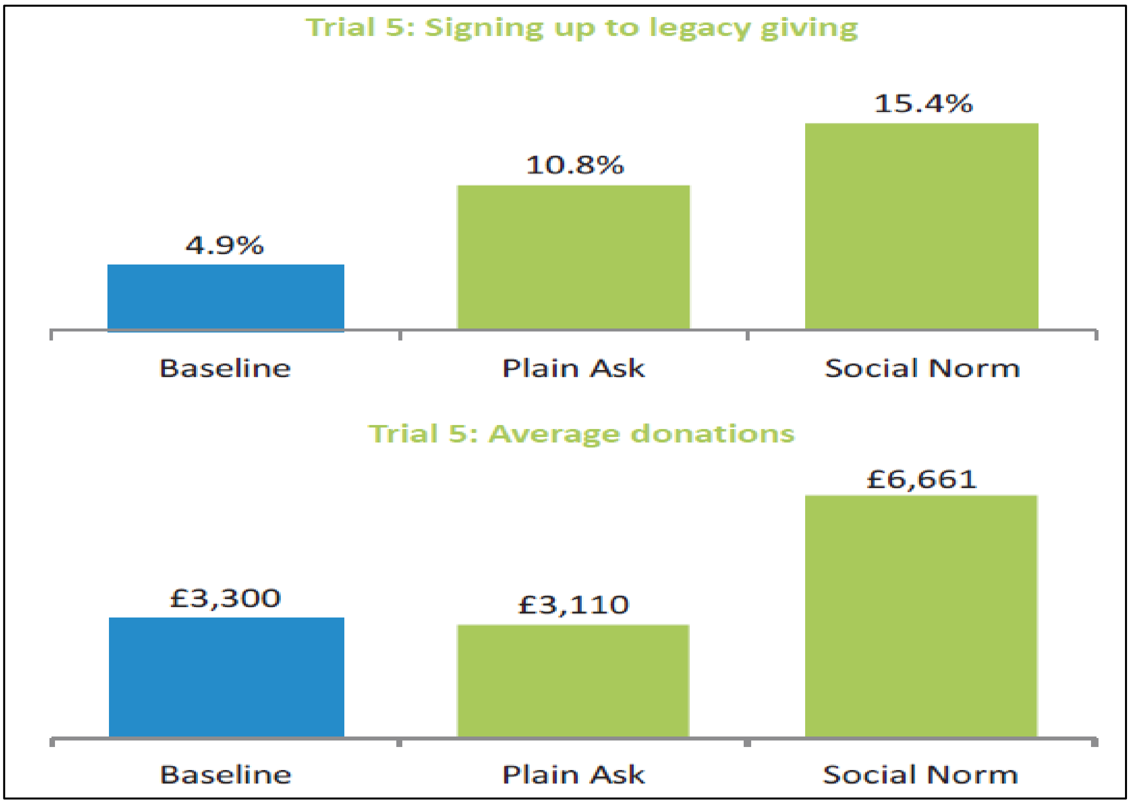
[7] Ideas 42, *Behaviour and Charitable Giving: 2019 Update*, p.13.

[8] See: https://www.hrblock.com.au/tax-academy/bigger-tax-refund

[9] Productivity Commission, *Future Foundations for Giving; Draft Report,* November 2023, p.323.

[10] UK Behavioural Insights Team, *Applying behavioural insights to charitable giving*, 2013, p.22,23.



6. **Provided it is well communicated, the reform would be popular with the Australian people.**

- Polling of more than 2,500 Australians by Redbridge in November 2022 found 70 per cent supported the reform, 9 per cent were opposed, and 20.9 per cent were neutral or not sure.
- While this level of support is strong, focus groups by Redbridge identified the need to frame and communicate the reform effectively to the Australian people.
    - It is important people understand the option to donate at tax time is completely voluntary and the choice of every Australian.

      "I think it's a great idea. It's not making anyone give anything they don't want to give. It's just a reminder, and it's an easy option."
    - People did not respond favourably to the behavioural economics terminology – 'a tax return nudge' – or where they perceived the reform as the government taking away their agency to decide for themselves what to do.

      "That's the government getting involved in charity. That's the government advising me what to do. That's the government wanting to take personal choice away from me."

7. **We'd welcome the PC taking another look at this reform option.**

- As detailed in Example One in Attachment One, the draft report did not appear to fully consider the strong case for this reform or how it could be designed to overcome risks and deliver a net benefit. We think it deserves another look.

1.3 A strategy to grow Australia's Community Foundation network

Recommendation

1. **The PC recommend that the Federal Government work with the Community Foundation and broader philanthropic sectors in a dedicated policy process to Develop a Strategy to Strengthen and Grow Australia's Community Foundation Network**, which could include:

- Articulating the roles for government and philanthropy in growing the sector.
- Considering the potential role of the Community Foundation network in contributing to a more giving Australia (such as by facilitating community-led giving and volunteering, restoring social capital, developing innovative solutions to local problems, and delivering greater equity across Australia in philanthropic giving).
- Better understanding the evidence on the impact of community foundations.
- Better understanding the international evidence and practice from nations where Community Foundations play a more substantial role.
- Considering potential co-investment opportunities and priority reforms to grow the sector, such as those specifically developed for the PC by PA and Community Foundations Australia (CFA) with support from Social Ventures Australia in ***The opportunity to grow Australia's community foundation network: A strategic roadmap***.

The Case for Reform

1. **The PC has not given attention to new reforms to grow the Community Foundation network in its draft report.**

- The new policy initiatives recommended by PA and CFA in its specific submission on Community Foundations, did not feature in the PC draft report, so perhaps are not favoured.

2. **An alternative approach would be to 'take a step back' - taking time to develop a strategic policy framework for Community Foundations, working from first principles.**

- Australia's Community Foundation network has made an important contribution over many decades. However, its contribution is still well below its vast potential and what has been achieved in leading nations such as Canada.
- At the same time, the sector has considerable momentum and a palpable sense of possibility. The Government is in the process of granting DGR 1 status to all the foundations in the network. The peak body – Community Foundations Australia – has been strengthened, including through the appointment of new CEO, Ian Bird, who led the growth of Community Foundations in Canada. Giving is growing rapidly, at around 14 per cent per annum. There is too much momentum to simply let the opportunity slip to further investigate how Community Foundations can play a stronger role as critical, local social infrastructure in communities across Australia.
- Rather than immediately recommending initiatives to grow the sector, now might be the right time to develop a strategic policy framework for growing the sector, identifying the roles for government, philanthropy and the sector, examining the evidence on impact and how to grow the sector, and learning from international evidence and practice.

3. **A recommendation for a discrete and dedicated policy process on Community Foundations is justified because they address key policy issues.**

The decline in community participation and social capital.

- Andrew Leigh and Nick Terrell in *Reconnected* (2020) chart the decline in social capital and community participation in Australia in recent decades. We are much less likely to participate in community groups, we have less friends (down from an average of 9 trusted friends to 5 between 1984 and 2018), we are less likely to volunteer and less likely to know our neighbours. Participation in religion is falling, which impacts the social fabric as people with religiously based social connections are two to three times more civically engaged and generous. Less people are engaged with politics, which has led to a sharp decline in trust in government and satisfaction with politics. Participation rates in sport are falling, including among children, and 67 per cent of Australians are now overweight or obese. There has been a steep rise in loneliness – almost 30 per cent of the population report they hardly ever or never catch up with friends, while half report feeling lonely at least one day a week. In sum, the connections and social capital that give us meaning, bind us to each other and ensure people are not left behind, are in decline.

- Creating a national network of Community Foundations can help restore this critical national social infrastructure, helping to spur community giving and local volunteering, with more community-led action aimed to ensure people are not left behind. This work can help shift the culture in communities and across Australia, creating a more generous and giving community, with more social connection and social capital.

Innovative solutions to local problems

- Community Foundations are run by people with detailed knowledge of their local community, so they are well placed to know where to invest – and how to galvanise local leadership – to drive maximum impact.
- With this local knowledge, Community Foundations are particularly effective in providing innovative solutions to local problems. With flexibility, they can deploy a greater risk appetite, trialing and testing approaches government may be unable or unwilling to pursue.
- Cumulatively, the national network can incubate a suite of more innovative approaches to local problems, with the potential for government to learn from, and adopt, some of the key lessons in a more systemic manner.

Better targeting philanthropic giving across Australia.

- The PC highlights a challenge with philanthropic giving is that it flows mainly to well-known charities, so other charities that achieve great impact can miss out, particularly if located outside of our major cities. In 2016, the largest 10% of charities (by annual revenue) received 94% of all donations.
- Ideally, philanthropic funding would be targeted in a more disperse way, better targeting need. For instance, studies confirm disadvantage in Australia is highly concentrated in particular locations, notably outer metropolitan, rural and remote areas.[11]
- Having Community Foundations operating in communities across Australia could give modest impetus to a fairer sharing of charitable giving across the nation.

4. Community Foundations allow local people to donate to a permanent endowment – and lead and participate in activities - focused on improving the lives of people in their region.

- Many Australians develop strong ties with their local community or region, understand what makes it tick, care about its people, and want to see it thrive.
- Community Foundations are a great way for people from all walks of life to get involved in donating, volunteering, and participating in projects to help their region thrive. They galvanise the community to drive place-based change in a myriad of ways.
  - Local people establish, manage and govern the CFs to meet local needs.
  - They identify local challenges and engage the community in finding solutions.
  - They raise and attract funds from many donors with diverse interests.
  - They provide grants to community-based organisations to do critical work.
  - They harness untapped local capacity and leadership by giving local people voice and agency in decisions that matter to them.
  - They create a virtuous cycle, with local participation driving successful projects, showing what can be achieved. This builds social capital and confidence, galvanizing communities to continue positive place-based change.

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[11] Jesuit Social Services, *Dropping Off the Edge 2021*; and Australian Bureau of Statistics, *Socio-Economic Indexes for Areas (SEIFA), Australia*.

5. **Emerging from the pandemic and a series of natural disasters, Australians are living and working more locally and increasingly keen to engage to strengthen local communities.**

- Polling and focus groups commissioned by PA and undertaken by Redbridge of more than 2,500 Australians found 61 per cent agree they'd like the opportunity to donate or get involved with a local Community foundation, while 9 per cent disagree.

6. **Ensuring almost all Australians can participate in a local Community Foundation is a great way to grow giving and volunteering.**

- Even with limited national coverage, Australians are increasing giving to community foundations at a greater rate than Australians overall tax-deductible giving (growing at an average of 14% vs 8.4% respectively, from 2016 to 2021). They are attractive to donors as they are trusted, community-governed institutions, delivering cost-effective impact.
- Community foundations are well placed to capture a share of Australia's unprecedented intergenerational wealth transfer. $2.6 trillion of wealth will transfer from 2021 to 2040, a third of which will be outside our cities.

7. **The Strategy could consider the reforms developed by CFA and PA, in consultation with Australia's network of community foundations, in its submission to the PC.**

BOX 1.3: REFORMS OUTLINED IN THE OPPORTUNITY TO GROW AUSTRALIA'S COMMUNITY FOUNDATION NETWORK: A STRATEGIC ROADMAP

PA and Community Foundations Australia (CFA) with support from Social Ventures Australia, set out a broad strategy and policy agenda to strengthen and grow the Community Foundation network in ***The opportunity to grow Australia's community foundation network: A strategic roadmap***. Key elements included:

1. **An overall aspiration:** Between 2021 and 2030, increasing: funds under management from $500 million to $1 billion; annual grantmaking from $40 million to $100 million; and the proportion of Australians covered by Community Foundations from 60 to 90%.
2. **Reforms to strengthen the existing network of Community Foundations, including:**

- **Time-limited operational and matched funding for the existing national network of 40 Community Foundations:** Support to help all Community Foundations grow to a minimum sustainable size of around $5 million can ensure all foundations have paid staff, provide a suite of high impact initiatives, and are positioned to drive long term, sustainable growth. Catalytic matched funding can support foundations to reach this benchmark size, while incentivising the network to promote their work, engage the community and fundraise locally.
- **Time-limited funding to strengthen the peak body, Community Foundations Australia (CFA).** $3 million over six years and DGR 1 status would position CFA to: work with government on the roll out of this package of reforms; and support the network – particularly new foundations – to achieve sustainable growth.

3. **Reforms to catalyse new foundations, including:**

- **Streamlined access to DGR 1 for any new Community Foundations:** The Government's current work to provide access to DGR 1 for existing Community Foundations should also ensure streamlined access is provided to new foundations in the future.
- **Seed and matched funding to create 20 new Community Foundations in priority locations.** Matched funding 'challenge grants' have been instrumental to the growth of community foundations globally and in Australia. Challenge grants incentivise community foundations to match the grant from community giving and galvanise the community and its leadership to drive community-led change. They help foundations to rapidly build sustainable assets, establish committed donor bases, build fundraising capability, and set the foundations for long term sustainability and impact. They could be located in places that complement the Government's work to address place-based disadvantage.

1.4 A National Giving Campaign

Recommendation

- **The PC recommend the Federal Government and the philanthropic sector collaborate to develop, co-fund, trial and evaluate a three-year National Giving Campaign**. If successful, the government could increase its investment, with the campaign sustained over 10-15 years, the timeframe likely to be needed to achieve lasting behavioural and cultural change.

The Case for Reform

1. Creating a more aware and generous culture is critical to increasing national giving.

- The PC and PA agree that culture – in particular the strong cultural expectation that people, particularly those with wealth, will give to charity – is an important factor driving national giving. Australia faces challenges in this area – our national giving level is low, the proportion of Australians giving and volunteering is declining, and the proportion of wealthy Australians strongly embracing philanthropy substantially lags that of leading nations such as the US.

2. National campaigns can be an effective way to shift national culture and behaviour.

- The PC and PA also agree that in principle, a government-funded public campaign could help broaden participation in giving, and that such campaigns have been successful in a suite of contexts, such as the reduction of smoking.
  - PA set out its views on the economic case for a National Giving Campaign in ***Philanthropy Australia Supplementary Submission: Is there a role for Government in supporting a National Giving Campaign?***
- The PC notes not all campaigns have been successful. Careful design is needed to ensure benefits outweigh costs. Few major national campaigns targeting giving have been undertaken, particularly on the sustained basis needed for success, and there has been a lack of rigorous evaluation.

3. The Campaign would therefore be a social innovation, so careful design, trialling and evaluation makes sense.

- As the PC notes, a key role of philanthropy is to drive social innovation, while government is the key entity that can fund effective practices over the longer-term. Collaboration to trial and evaluate the effectiveness of a National Giving Campaign looks a good option.
- Government co-funding is justified as this is an area of market failure - without more information, awareness, prompting and a culture of giving, contributions to charitable organisations will be underprovided. Government involvement can help ensure a robust trial and evaluation, and assist it coming to a view about the merits of longer-term funding. Government's also have more capacity to contribute - $685 billion in annual revenue (2023-24 MYEFO, p.339) compared with a bit north of $2 billion being distributed annually in structured giving vehicles.

4. A National Giving Campaign can be designed to meet the effective program design principles outlined by the PC.

- A public campaign can, in-principle, be highly effective, leading to a significant number of additional Australians, including wealthy Australians, taking up giving, leading to a rise in giving massively exceeding the cost of the campaign. As the PC notes, the big challenge is to design a campaign in a way that increases giving and achieves net community benefits.
- Philanthropy Australia has done preliminary work with: Redbridge, to better understand community attitudes to giving; Sayers, to inform high level campaign strategy; and The Shannon Group, to test creative concepts. We recognise additional design work is needed to develop a robust campaign, but our work to date suggests a successful campaign can be achieved. To date, our approach has centred around:

- A Masterbrand, 'Australia Gives', with the Shannon Group testing national marketing and communications approaches that would inspire Australians with stories of impact and encourage them to give.
- National communications would encourage people to visit the campaign website, where people would be triaged into key target markets, each with substantial potential to give more. Each market would have tailored evidence-based messaging likely to appeal, a specific call to action on giving and information to support them taking the action.

- The campaign would meet the PC's design principles, as set out in the draft report.

PC design principle	How the principle is addressed (high level)			
A clear target audience	Wealthy individuals	Volunteers	Business	Financial advisers
A clear message on desired action	Set up a PAF or sub-fund	Volunteer at favourite charity	Pledge 1%	Engage clients on giving
A credible messenger	Peers who have embraced giving are likely to be the most effective communicators.			
Sustained effort	If the pilot is successful, the program can be sustained over time.			
Coordination with on the ground policies	Donors get a tax deduction. Not-for-profit organisations – Volunteering Australia, PA, Workplace Giving Australia - could provide back-end advice and support.			
Tailored communication	These not-for-profit organisations have experience dealing with their target markets. Market testing of messaging would be undertaken to ensure effective tailoring.			
Effective channels	Each NFP has considerable insight here too, but further research would be undertaken to ensure messaging for each target market utilises channels they prefer.			

- PA's work with Redbridge also provided an additional insight. Focus Groups provided a strong message that such a campaign would be poorly received if presented as a glossy, government-led campaign, seen as telling citizens what to do. By contrast, there was strong support for a campaign led by not-for-profits to give people information on why and how to give, empowering them to make their own choices. Polling of more than 2,500 Australians by Redbridge in November 2022 indicates a grassroots campaign led by not-for-profits would be popular, with: 65 per cent supporting the proposal; 7.1 per cent opposed; and 27.8 per cent neutral or not sure.[12]

5. The campaign would successfully create a stronger giving culture and lift giving and volunteering, targeting markets with extensive capacity to give more.

We believe it highly likely the campaign could yield an increase in giving many-fold the expenditure by government and philanthropy needed to design and run the campaign. For instance:

- **Wealthy Australians:** Wealth is rising rapidly at the top end of Australian society – for instance, wealth among 'The Top 200' has risen from $209 billion to $563 billion between 2016 and 2023. There are over 20,800 ultra-high net worth individuals ($30m plus net wealth), and hundreds of thousands more with substantial wealth. Some give substantially, but most do not. Creating a culture where all high-net-worth individuals are expected to give substantially could yield billions in additional giving. Even converting a few high wealth Australians to philanthropy might yield a positive return on the campaign.
- **Business and workplace giving:** With business profits running at around $500 billion annually – and corporate giving at 0.78 per cent of profit among our Top 50 corporates running behind some comparable countries – lifting business and workplace giving is another key avenue to increasing national giving.
- **Financial and legal advisers:** Financial advisers and accountants advise Australians on how best to use trillions in wealth, but relatively few raise the option of philanthropy. A campaign can encourage many it is in their interest and the national interest to engage their clients on the potential of giving.

[12] Redbridge, *Philanthropy Australia Community Case*, December 2022 – available here.

1.5 Strengthening the Charity Sector

Recommendation

1. **The PC recommend the Federal Government implement a package of reforms to strengthen the charity sector.** This agenda can be informed by previous reports such as the PC's 2010 report, *Contribution of the Not-for-Profit Sector*, which outlined a powerful agenda for reform, much of which is yet to be implemented.
2. **An Office of Not-For-Profit Reform**[13] could be established within a central agency such as Treasury to partner with the sector on reforms to strengthen Australia's charities, with a focus on:

Building capabilities, including:

- **Leadership –** Working with institutions such as the Centre for Social Impact and ANZSOG to produce larger cohorts of high calibre charity leaders, with skills across governance, business planning, strategy, people management, workforce planning, technology uptake and evaluation.
- **Evaluation –** with just 38 per cent of the not-for-profit sector collecting outcomes data, more support to assist with evaluation and continuous improvement would help to lift impact. The PC in 2010 recommended that the Australian Government should provide funding for the establishment of a Centre for Community Service Effectiveness to promote 'best practice' approaches to evaluation. (Rec 5.4).
- **Social Innovation** – In 2010 the PC recommended that major programs include a Social Innovation Fund to trial, test, evaluate, and if successful, expand new approaches (Rec 9.5).

A national strategy to create a top-class cadre of talented, professional fundraisers

- Professional fundraising unlocks funding for charities and increases total national giving because donors rarely give without being asked, and give more when it is done effectively.[14]
- While there are effective fundraisers operating in Australia, many charities believe Australia lacks the cadre of professional fundraisers needed to capitalise on the rising philanthropic opportunities available in the nation.
- Government could bring together stakeholders to develop: a vision and strategy; and action plans in areas that could include:

1) establishing an ANZCO classification for fundraisers to build the status of the profession and allow policymakers and industry to track progress in building a skilled fundraiser workforce.
2) a strategy to attract top talent to the sector, including through information and marketing campaigns highlighting fundraising as a highly professional and in-demand career.
3) developing enhanced education options, building on courses such as the Certified Fund Raising Executive (CFRE), with options such as courses within relevant degrees such as the Master or Bachelor of Business, or discrete undergraduate degrees, and identifying the most effective training methods, including the potential to combine theory with placements within the charity sector.
4) developing a career structure, with accredited levels linked to qualifications and experience.
5) including enhanced fundraising modules in governance training, such as the AICD course, so Boards and Executive Teams understand the value of fundraisers and how they can be best deployed.

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[13] An Office of NFP Engagement was recommended by the PC In 2010 and briefly established, but abolished by the Abbott Government.

[14] *Bekkers, R., & Wiepking, P. (2011). A Literature Review of Empirical Studies of Philanthropy: Eight Mechanisms That Drive Charitable Giving. Nonprofit and Voluntary Sector Quarterly, 40(5), 924-973. https://doi.org/10.1177/0899764010380927;*

A better operating environment for charities, including a stronger, more equal partnership.

- **Completing the Fix Fundraising agenda.** Creating a single national fundraising regulation regime – to replace the seven different State and Territory sets of rules – would cut costly and time-consuming red tape and enable more funds to go where they are needed most – helping people in need. There is recent momentum for reform, but some states and territories are yet to deliver on their commitments. A recommendation from the PC could help galvanise commitment at a critical time in the reform journey, ending an episode of government failure lasting decades that costs charity $15 million a year - money which should be going to support people in need.
- **Reducing red tape:** The PC found in 2010 there was too much 'command and control' by government officials, rather than recognising charities have expertise in how to deliver impact and should be partners in driving change. This practice remains prevalent today. The PC recommended: 'Australian governments should urgently review and streamline their tendering, contracting, reporting and acquittal requirements in the provision of services to reduce compliance costs. This should seek to ensure that the compliance burden associated with these requirements is proportionate to the funding provided and risk involved.' (Rec 12.7)
- **Full funding** The PC recommended the government provide full funding to charities for services they would otherwise provide (Rec 11.1) and fully factor in market wage rates, the skills required and appropriate indexation (10.2). The *Pay What it Takes* campaign has highlighted this issue remains unaddressed. In 2010, the PC noted: 'With respect to the NFP workforce, governments should recognise the effect of not paying the full costs of service delivery. Part funding can make it difficult for NFPs to pay competitive wages to attract and retain workers, with the cumulative effects of underinvestment in workers, technology, and planning putting pressure on the quality and sustainability of service delivery. Full funding may be one of the most important steps to address the workforce issues in the relevant human services sectors.'
- **Improving funding certainty:** Too many contracts are for 1-2 years without a clear policy rationale, making it difficult for charities to attract and retain talented staff and plan for the long term. Resources that could go into service delivery are needlessly wasted on government relations and administration. As the PC recommended in 2010: 'The length of service agreements and contracts should reflect the length of the period required to achieve agreed outcomes rather than having arbitrary or standard contract periods.' (Rec 12.5).

The Case for Reform

1. **Measures to strengthen the charity sector are within the Terms of Reference, and can improve trust in the sector, encourage more giving and lift the effectiveness of giving.**

- Point two of the Terms of Reference asks the PC to: 'Identify opportunities to increase philanthropic giving and the extent of their potential impact, including … [sub-point (iii)] The potential to increase philanthropy by enhancing the effectiveness and efficiency of the use of donations.'
- The draft report spends considerable time identifying how to strengthen regulation or its application on the charity sector, noting this is important to maintaining trust in the charity sector – an important component of encouraging giving and ensuring it is effective.
- The measures PA identifies above can complement the role of regulation in building trust in the charity sector, and lifting its efficiency and effectiveness.
- As recognised by the PC in 2010, these measures are properly the role of government as they address areas subject to market failure – such as education and training to build capability – and government failure – such as excessive red tape and unproductive approaches to partnering and contracting with charities.

2. **Stronger capability and impact will lift national giving by giving donors confidence their donations will make a difference.**

- Polling and focus groups conducted by Redbridge in late 2022 showed that while there is substantial support for the work of charities, including a view that they can spend money more flexibly and effectively than government, there remains some caution about the transparency of donations.

> “For financial donations, how do we know where it's going? How do we know how it's helping?”
>
> “I like to donate to an organisation that has a good profile and reputation and to be able to see where the money is going,”
>
> “Knowing the organisation or the cause [is important]. I like to have confidence in the organisation, a brand I can trust.”

- A stronger charity sector will give donors increased confidence to give, knowing their donation will deliver impact.

3. The charity sector plays a massive role creating a stronger, more equal society and a more sustainable environment.

- Our charities big and small – like the Royal Flying Doctor Service, Smith Family, Fred Hollows and Foodbank - help millions of people in need every year and work across every area of social policy. Charities like the Australian Conservation Foundation and The Wilderness Society help preserve our natural environment. Where would we be without our great Australian charities?

4. Lifting productivity and impact.

- The charity sector includes around 60,000 organisations and employs around 11 per cent of the Australian workforce, more than either retail or construction. Enhancing the capability of the sector can enhance its critical impact and make a meaningful contribution to national productivity, the key driver of our living standards.

5. It’s time for government to be a better partner with charities.

- As numerous reports have shown, for too long governments have not been the best possible partners to Australia’s charities. There has been too much ‘command and control’, rather than partnering in ways that recognise charities know a lot about how to have impact. Inconsistent fundraising regimes across states have persisted for decades, costing charities dearly, without being resolved. Governments continue to issue contracts without paying full costs for service provision, and regularly provide short-term contract extensions, leaving charities in constant fear of being closed down, unable to retain great staff and plan for the future. These issues can readily be fixed. The time for action is long past due.

1.6 A national giving and volunteering data set

Recommendation

1. **The PC recommend a single agency – such as the ABS – bring together the various data sources on giving into a single, comprehensive national data set on total giving and volunteering and its key components, published annually.**

The Case for Reform

1. **The Treasurer in the Terms of Reference asked for recommendations for better data on philanthropic giving.**

- Point 4 of the Terms of Reference is to: 'Consider the appropriateness of current sources of data related to philanthropic giving, and how databases could be enhanced in a cost-effective manner.'

2. **PA was delighted to see the PC make excellent recommendations to improve data collection.** For instance:

- Companies publicly reporting itemised information on their donations of money, goods and time to entities with deductible gift recipient status (Rec 9.3).
- The ATO collecting and publicly reporting public information on corporate giving (Rec 9.3);
- The ACNC collecting and publishing information on bequests (Rec 9.4);
- The ABS collecting and publishing more information on volunteering, including to capture informal volunteering and the number of hours spent volunteering (Rec 9.5).

3. **However, this still leaves multiple agencies reporting on components of data at different times, with no comprehensive 'single source of truth' on total national giving and volunteering and its key components.**

- The PC's recommendations are very welcome, but would leave our incoherent system for collecting and publishing giving information in place. In Australia, no single organisation is responsible for bringing together and publishing comprehensive, up-to-date data on philanthropy. We have numerous reports by numerous public, for-purpose and private organisations on components of philanthropic giving. As a result, we don't have a clear, consistent overall picture of philanthropic giving or its components in Australia. For instance:
    - The ACNC compiles its annual Charities Report from mandatory annual information statements provided by registered charities.
    - The ABS publishes information on volunteers.
    - The ATO collects data on donations claimed as tax-deductions, such as by individuals, Private Ancillary Funds and Public Ancillary Funds.
    - Private organisations occasionally step in to provide their own estimates, such as JBWere's *Support Report* and *Corporate Support Report*, or the JBWere-NAB *Charitable Giving Index*.
    - Sector reports are often commissioned, such as reports by Creative Partnerships Australia on giving trends in the arts.
    - Significant government publications are periodically commissioned, such as the *Giving Australia* reports of 2005 and 2016.

4. **The next step is to recommend a coherent system for collecting and disseminating consistent comprehensive data and on giving and volunteering, to be published annually.**

- Philanthropy Australia would like to see the PC recommend one of the key agencies involved be charged with bringing all the data together into a National Giving and Volunteering Data Set, to be published annually.

5. **It is appropriate for the data to be complied and published by government**, as:

- The key players collecting the information – ABS, ATO and ACNC – are government agencies and have the relevant expertise. They are trusted by the community. As primarily an aggregation exercise, the work should be able to be accommodated by one of our leading statistical institutions.
- This information is a public good, of use to policymakers, charities, philanthropists, businesses and volunteers right across our society. Provision of public information in a suite of economic, social and environmental fields has primarily been the preserve of government.
- The Federal Government has greater capacity to fund this work – with annual revenue approaching $700 billion compared to just over $2 billion available for annual distribution from structured philanthropy.

6. **Better data on giving and volunteering would have considerable benefits, as recognised by the PC.**

- It can guide policy, tracking whether Australia is trending to a more generous and giving nation, and helping to inform whether particular policy measures have been effective in lifting net giving.
- Frequent publication of credible data – and the media and public discourse it would produce – would be a low cost, high yield nudge to the Australian community to lift their giving.
  - Public information on trends in corporate giving would place a spotlight on giving by business and encourage the sector to lift its philanthropic contribution.
  - Information on giving trends would position philanthropists to focus their giving to support Australians in greatest need.
  - Charities may be better positioned to attract support for their high impact initiatives.

7. **Developing an overarching, coherent, consistent National Philanthropy Data Set could provide all the data we need more cost effectively.**

- The current system has multiple public, for-purpose and private organisations spending substantial collective amounts to produce partial, incoherent, generally out of date information on philanthropy.
- By obviating the need for numerous additional reports to fill data gaps, the comprehensive data set would deliver better national giving and volunteering information at lower national cost.

1.7 Governance arrangements to drive stronger impact

Recommendation

1. **The PC recommend governance arrangements that facilitate regular engagement between government and philanthropy to drive greater social and environmental impact.**
2. **As PA suggested in its May Submission, p.59-61, this could include:**

- **High level engagement by sector leaders:** For instance, a Prime Minister's (and/or Treasurer's) Giving Council could include 2-3 representatives from the four key sectors – government, business, philanthropy and charity – to meet annually to discuss progress with the double giving agenda, and outline plans for the coming year.
- **Portfolio level engagement:** Responsible Ministers and/or senior officials could engage with philanthropy 2-4 times per year to determine how all parts of society can collaborate on shared agendas, thereby magnifying what government can achieve through its actions alone. In particular, philanthropic funders could: co-invest in Flagship initiatives; and fund social innovations, which, if successful, could be adopted by government system wide.
- **Carefully staged implementation, drawing on lessons from the Investment Dialogue for Australia's Children (IDAC):** IDAC was launched in the May 2023 Budget and involves the Federal Government collaborating closely with philanthropy leaders, aiming to ensure young Australians get the best start in life. It has a particular focus on addressing place-based disadvantage. The first national roundtable was held in the Parliament on 4 December where philanthropy leaders engaged with Treasurer Jim Chalmers, Social Services Minister Amanda Rishworth, Indigenous Affairs Minister Linda Burney and senior officials from portfolios across government. Participants signed the Working Together Agreement – outlining a shared commitment to a long-term collaboration to improve the wellbeing of children, young people, and their families – and agreed to governance and working party arrangements to propel the initiative forwards in the years ahead.
  - It would make sense to implement other Ministerial portfolio arrangements – such as in the arts, environment or First Nations justice – in carefully calibrated stages, with lessons learned from the operation of the IDAC applied to subsequent arrangements. It is better that expanded arrangements work effectively and efficiently, rather than be rushed.

The Case for Reform

1. **Australia has never established sustainable, effective governance arrangements for government-civil society collaboration to drive impact through philanthropy.**

- While there have been periods of positive cooperation and achievement, such as through the Community-Business Partnership, powerful governance arrangements to create genuine cooperation and extract maximum impact have never been established and sustained in Australia's history.

2. **This means a massive source of social change is being left untapped. Collaboration could help propel a shared agenda, delivering greater impact per dollar expended.**

- As the PC notes in its draft report, government and philanthropy have complementary strengths. Philanthropy has more flexibility to trial social innovations. Government is better positioned to pick up and adopt effective practices system-wide.
- Unfortunately, a lack of collaborative structures has sometimes meant powerful social innovations have been tested and proven, only for government to fail to then back the initiatives or take many years to do so. Minister's collaborating with civil society would find ways to magnify impact in their portfolios beyond what they can achieve through government investment alone.

3. **Simple, efficient, non-onerous collaboration structures could deliver much stronger social impact through better cooperation.**

- There have been a suite of important examples where philanthropy and government have each played a role in creating impact, such as the development of the bionic ear or the cervical cancer vaccine, development of a world class arts precinct at Southbank, Victoria, or philanthropic support for Orgyen, which spawned headspace, a pioneering national system of mental health support for young Australians.

- The challenge now is to find ways to make this more frequent and systemic, so more substantial impact is achieved from the collective investment. Social innovation could 'roll off the production line' more consistently through structured collaboration, rather than emerge in an ad hoc manner through serendipity.

4. **Governance is within the PC's Terms of Reference.**

- Point 2 asks the PC to 'Identify opportunities to increase philanthropic giving and the extent of their potential impact.'

5. **There is momentum within Government for collaborating with civil society to drive innovation and impact.**

- For instance, the Treasurer, Minister for Social Services, Minister for Indigenous Australians and senior officials from departments across government are collaborating systematically with philanthropy on the IDAC. The Treasurer is engaging business, super funds and philanthropy through investor roundtables aiming to jointly address issues such as affordable housing.
- The Prime Minister and Treasurer are championing this approach to governing.

> "We must rediscover the spirit of consensus that former Labor prime minister Bob Hawke used to bring together governments, trade unions, businesses and civil society around their shared aims..."
>
> — ***Prime Minister Anthony Albanese in his speech to the AFR Business Summit, 2022***
>
> 'How do we build this more inclusive and resilient economy...? By strengthening our institutions and our capacity, with a focus on the intersection of prosperity and wellbeing, on evidence, on place and community, on collaboration and cooperation. By reimagining and redesigning markets – seeking value and impact... And with coordination and co-investment – recognising that government, business, philanthropic and investor interests and objectives are increasingly aligned and intertwined.
>
> With a new, values-based capitalism for Australia, we can understand something the old thinking neglected: that the problems of government – of whole societies – don't and shouldn't permit one simple solution set. Single frameworks tend to close thinking down when what we need is to open our thinking up – to new approaches and new participants. That's how Prime Minister Anthony Albanese has led since taking office: deliberate, open, drawing in not only all the talents of government but also those of our society as a whole.'
>
> —***Treasurer Jim Chalmers, Capitalism after the crises', The Monthly***

6. **There is value in learning from the Investment Dialogue for Australia's Children – expected to be announced shortly - in order to inform robust arrangements for other sectors.**

- IDAC has been developed over a couple of years through goodwill and sustained effort from government and philanthropy, overcoming impediments that have hampered previous attempts, and codifying the terms of engagement through the Working Together Agreement.

2. Responses on Key Issues

2.1 Changing the minimum distribution rates

Philanthropy Australia appreciates the very balanced approach the PC took to this issue in the draft report, with the case for and against changes well outlined for consideration.

Philanthropy Australia engaged its members in two ways:

- We released a draft submission to members on 22 December and called for written or verbal responses.
- We held two well attended member sessions in late January.

Responses on this issue were mixed, with the majority favouring no change to minimum distribution rates.

A minority of members believed minimum distribution rates could be lifted slightly higher – say to 6 per cent for PAFs – to get more money to charity sooner. They were swayed by the Commission's analysis that increasing the PAF minimum rate to 6 per cent could mean another $60 million per year for charity. Advocates of this position expressed confidence that most ancillary funds could achieve returns in excess of 6 per cent, so could still operate in perpetuity with a slightly higher minimum distribution.

A majority of members believed Australia's long-term giving will be higher if minimum distribution rates are left as they are at this time. The rationale:

- The key driver of increasing donations in this area is to increase the number of ancillary funds. Increasing the minimum distribution amounts could impede this growth, harming long-term giving outcomes.
    - As the PC notes, the growth of ancillary funds has been a key driver of increased giving. Giving into private and public ancillary funds has grown both in value (from $692 million in 2011-12 to $2.4 billion in 2020-21) and as a share of giving by individuals (donations to private ancillary funds have grown from 15% to 27% of individual giving). Net assets have grown from $4.6 billion in 2011-12 to $16.4 billion in 2020-21.
    - The key imperative now is to attract more wealthy Australians to establish funds. Compared with nations such as the US, Australia is at a relatively early phase of the take up of ancillary funds. In a little over 20 years, more than 2,000 PAFs have been created and they are growing at around 100 per year. A common view is that Australia should have at least 20,000 PAFs, given our wealth. There are over 20,800 ultra-high net worth individuals ($30m plus net wealth), and hundreds of thousands more with substantial wealth. The key thing at this point in our history is to expand take up.
- It is also critical to provide maximum support to charitable purposes over the long-term. Imposing a minimum distribution rate that meant the corpus was steadily eroded would mean less people supported than a rate that allowed ancillary funds to operate in perpetuity.
- Those with sufficient earnings generally already do give in excess of minimum distribution rates.
- It was also noted that ancillary funds were increasingly embracing social impact investing, including through higher risk or concessional loans. Lowering the minimum distribution rate could impede the ability of ancillary funds to offer these loans.

There is lively debate on this issue in the United States, as detailed by **Paul Salmon, 'Private Foundations and the Five Percent Payout Rule', Policy Primer, November 2023.** Key findings:

- There are 125,000 domestic grant-making institutions in the US that distributed $105 billion in 2022, a quadrupling in donations over 25 years.
- The 1969 Tax Reform Act established a minimum distribution rate for the first time, at a rate of 6 per cent, which resulted in around 15 per cent of foundations closing by 1974, mainly because they were unable to sustain the required rates of return to maintain their corpus. In 1976 it was reduced to 5

per cent (noting that the law allows foundations to include their administration costs within this 5 per cent) and this has applied ever since.

- The author details a suite of studies over various timelines showing that real returns on investment for foundations have been a little over 5 per cent since then. For these reasons the authors conclude there is no justification for increasing the minimum distribution rate, noting:

> The 5 per cent payout rate was chosen to strike a balance between providing resources for charitable activities and ensuring long-term asset growth. Existing studies and available data consistently demonstrate that the 5 percent payout rule comes closest to preserving the purchasing power of private foundations, providing a consistent and reliable source of funds for charities over the long run. What's more, forecasts of future investment returns suggest even a 5 percent payout requirement could restrain the long-term activities of some foundations, while higher payout requirements would lead to a significant decline in real dollar payouts over time.
>
> [On critics arguing for a higher payout rate] … a thorough analysis of the data and literature suggests such proposals are unjustified and likely to stifle activity – resulting in fewer dollars available for our society's most vulnerable, especially over the long term.

2.2 Removing DGR status for school building funds

The majority of PA members expressing a view on this topic believe that DGR for school building funds should be retained as:

- Education is pivotal to productivity, opportunity and equity in our society. There is a much stronger case for expanding DGR to all primary and secondary schools – so private funding can enhance what can be achieved by government alone in supporting children to get a great education – than going further to restrict philanthropic giving in education.
- The funds provide a significant community benefit. Donations by families and alumni are often a way of 'giving back', with support for school infrastructure benefiting children right across the school, often for generations to come. Indeed, a significant minority of donors are friends and alumni donating to the school long after their children have departed. Many donors contribute to infrastructure not finalized until after their children have left the school. Many schools also make their buildings and facilities available for community use.
- The recommendation would make Australia an outlier compared with leading philanthropic nations around the world.

A minority of PA members expressing a view on this matter agreed with the PC's recommendation, arguing that:

- The benefits of donations do accrue privately.
- There is a significant disparity between public and private school resourcing which DGR for school building funds makes worse.
- The Federal Government already invests substantially in the private school sector.

ATTACHMENT ONE: FURTHER DEVELOPING THE CASE FOR REFORM

Example one: A voluntary choice to donate as part of the tax return process.

The case for action is not well articulated in the discussion of this proposal (p.327-329).

Significant benefits weren't canvassed, such as:

- **The reform addresses clear policy problems.** Australia lacks a culture of giving present in leading philanthropic nations – this reform has the potential to become a valued national custom, and a regular reminder of the value of giving. Through simplicity, it also overcomes the effort and red tape often involved with giving, and facilitates choice for people to give to charities they value.
- **It could substantially lift giving.** Around $30 billion is returned each year in tax returns, or around $2,800 among those receiving returns. In a wealthy country, we might expect several billion in additional giving to occur each year, even after substitution effects, or tens of billions per decade.
- **It has significant potential to be welfare enhancing:** The PC has confirmed the tax concession for giving is welfare enhancing. It follows that if this reform is effective in increasing such giving – and does not have major downsides – it too is welfare enhancing.
- **Evidence from dozens of studies confirms behavioural nudges have been highly effective in increasing philanthropic giving.** More specifically, well timed prompts have radically increased giving. For instance, a trial by the UK Behavioural Insights Team showed that having lawyers ask clients making their wills whether they wished to make a philanthropic bequest as much as tripled the proportion of people giving, and doubled the average amount given.[15]

Risks are highlighted, but with limited focus on identifying means to mitigate them, or consider counter-perspectives. For instance:

- **Possible poor public reception:** The PC state 'It is possible that taxpayers may resent being asked to donate by a government body, particularly in the context of a compulsory interaction related to taxation, and a poor public reaction to this type of campaign could undermine other efforts to increase giving.' Mitigation/response: Redbridge national polling of more than 2,500 people showed 70 per cent supported the reform, 9 per cent were opposed, and 21 per cent were neutral or not sure. Redbridge focus groups show the risk of a negative reaction does need to be mitigated, but a communications campaign and appropriate messaging – including to be clear it is entirely voluntary – can mitigate the risk. Over time, it can become a positive and expected practice. As one participant said: "I think it's a great idea. It's not making anyone give anything they don't want to give. It's just a reminder, and it's an easy option."
- **Unethical:** PC: 'Use of nudges by the ATO to increase giving may also raise ethical issues. Some studies on the effects of nudges for giving, such as at supermarket checkouts, suggest they can cause feelings of anxiety or irritation for the people being asked to give. Mitigation/response: People are asked dozens of times a year for donations. It is unlikely one more voluntary ask would materially compromise mental health. On the other hand, it would be highly ethical to implement a reform to generate tens of billions to support people in greatest need.
- **Only the sector, not government, should implement behavioural nudges:** PC: '… the use of nudges among governments agencies, such as the Australian Taxation Office (ATO) for this purpose would be novel … [T]he sector itself – rather than government – is likely to be better placed to implement behavioural nudges most likely to increase overall giving.' Response: No evidence is provided that government should not undertake nudges, or that it can't be effective. Indeed, the Government massively influences behaviour and culture in a ubiquitous fashion – for instance, welfare rules encourage people to seek work, and tax concessions administered by the ATO to encourage research and development and business investment. Reform by its nature is often novel and the

[15] UK Behavioural Insights Team, *Applying behavioural insights to charitable giving*, 2013, p.22,23.

means by which we improve society. Only government can offer a choice to donate during the tax return process.

- **Some people might not donate:** PC: 'offering an option for people to donate to charity when lodging their income tax return would mean the deduction would apply to the next financial year. This might not be attractive to people that cannot reliably predict their tax position a year in advance.' Response: Some people with low or uncertain incomes may decide not to give in a particular year to ensure they can adequately support their families, and this is a good thing. However, this does not invalidate the potential or net benefit of this policy reform. The prompt is likely to be sufficient to ensure that millions of people – especially those more fortunately placed – will consider giving. As the Commission has identified, there are a range of non-financial motivations that could drive such giving. For some, knowing their next tax return will include a return for charitable giving may be an additional financial incentive. The idea for the reform is that we create a national custom, where those in a position to give, consider giving at tax time, aiming to increase giving by several billion a year (from the $30 billion returned).

More could be done to consider how the policy proposition could be made to work.

- Given the reform could deliver a large increase in giving, particularly over the long term, we believe the PC should consider the 'yes case' for action, how risks identified could be mitigated, whether benefits are likely to outweigh costs, and how a scheme could be designed to lift giving and be welfare-enhancing.

Example two: Allowing the choice to bequest through super

The PC underplays benefits and highlights but does not address multiple risks (p.268-272)

We are delighted that the PC has left open the possibility of recommending super bequests but note:

- The PC expresses the benefits as: 'The argument for change is to make the process simpler and easier by reducing any unnecessary regulatory barriers – and that this would enable more superannuation death benefits to be directed to charities upon death compared with the status quo.'
- A key section is headed 'There should be a high threshold for changes to superannuation arrangements.' This appears to suggest the case for the status quo should be given more weight than the case for policy reform. We disagree. As with any policy endeavour, careful judgement should be made, based on evidence and reasoning, fairly weighing the case for and against change.
- Multiple risks are then outlined, with no assessment of the gravity of the risk and no suggested mitigation.

1. Unintended consequences.
2. Giving may fall now and rise in the future.
3. The Government may reduce spending on charities.
4. The need for safeguards for members and dependents.
5. Implications for superannuation trustees, including potential costs from legal challenges or managing scenarios where the charity has wound up.
6. Alignment with the current policy objectives of superannuation.
7. Implications for the death nomination process.

- Stakeholders, with special emphasis on super funds, are then asked for their views, without the substantial benefits of reform having been identified and reflected.

PA believes the PC could usefully:

(i) Further consider, develop and reflect the strong case for super bequest reform – both in consultations with stakeholders and in the final report. In addition to removing unnecessary regulatory barriers, super bequest reform would:

- Deliver a very large net rise in giving over the long term;
- Ensure Australia's large super asset base is not effectively excluded from potential national giving;
- Provide a highly efficient means of giving, as bequests do not attract a tax concession;
- Deliver a significant increase in government revenue;
- Create a powerful lever for more equitable sharing of wealth and opportunity (Detail at 1.1 above).

PC analysis on these issues – particularly the increases in giving and revenue – would be welcome.

(ii) Proactively consider and detail how implementation challenges/risks can be mitigated.

PA agrees there are implementation challenges. We identified challenges and mitigation strategies in our May submission and asked Impact Economics to do further work in their report. We provide further advice in Box 1.1: Addressing Implementation Challenges in 1.1 above.

(iii) *Assess the likely benefits against the costs and risks.*

PA believes the benefits are likely to be very substantial – tens or hundreds of billions by 2060 at no revenue cost. By contrast, the costs and risks – even taken as a whole – are limited and/or can be addressed, making the case to recommend super bequests to the Federal Government very strong. As an additional safeguard, we recommend further engagement with the industry on how best to implement the reform, prior to implementation.

Example three: Removing the 17-cent tax penalty on super bequests.

The PC makes a strong case for the status quo (p.272-278)

- While there would be limited foregone revenue over the forward estimates, there would be considerable foregone revenue over the longer term.
- Removing the tax for donations to charity, while retaining it for adult dependents, is arguably unfair.
- Across the life cycle, people receive extensive tax concessions on their superannuation contributions, earnings and withdrawals.

However, strong arguments for removing the tax are not stated or are underplayed.

The PC concludes 'There is no case to change tax arrangements for superannuation bequests to charities.' PA is no longer seeking to advocate to the PC on this issue, as the PC has taken a final view. However, we believe there are strong arguments for removing the tax that should have been reflected and engaged with, even if, on balance, the PC recommended the status quo:

- **Inconsistent tax treatment:** The Government offers tax deductibility on donations to charities with DGR status, recognising the public good achieved through such charitable giving. The PC concluded that the DGR framework increases giving and produces a community-wide benefit, even after accounting for revenue foregone. However, charitable giving through super bequests are taxed at up to 17 cents in the dollar. The effect of this tax treatment is that a donation made when someone is alive is tax deductible, but a donation made directly through superannuation after they die incurs tax. It is not consistent logic to state that in one context, charitable giving should be encouraged through a tax break and is welfare enhancing, but in another context, a tax penalty should be imposed on charitable giving to protect community welfare.
- **Encouraging charitable giving:** Removing the tax penalty on super bequests would likely increase charitable giving. When told that super bequests attract a tax penalty, with such money going to the government rather than the intended charity, some people would likely give less or not at all. International evidence shows tax settings influence the level of charitable giving. Consider, for instance, what happens in nations that have inheritance taxes, which can be partially offset by charitable giving. A review of the evidence found 'An inheritance tax … provides greater incentive to give to charity. OECD analysis suggests charitable bequests decline by 12-20% when there is no inheritance tax in place.'[16] This argument does not appear in the draft report and indeed the PC states 'it is not apparent that the current taxation arrangements create an additional barrier to giving from superannuation death benefits…'
- **Lower revenue foregone and a more efficient means to encourage giving:** The PC states '… the cost to government would likely be higher than for donations through other mechanisms.' This is false. Most giving is tax deductible, so people can deduct it at their top marginal tax rate of up to 45 cents. Removing the 17 per cent tax on super bequests is likely a more efficient means to spur giving (including because components of bequests may displace money otherwise going to child dependents which are not taxed). The PC view that removing the tax on super bequests is relatively expensive appears to be based on counting in the cost not just the 17-cent reduction, but all the tax concessions provided to individuals for their super across their lifetime. These broader expenses happen in any case. A policy costing would only count the cost of the change from the status quo.
- **A fair assessment of revenue foregone?** We note the PC uses the figure of $3.6 billion in revenue foregone in 2060, using the most optimistic assumption for increased giving, and the unlikely assumption that all bequests displaced funds otherwise going to adults rather than dependents.

[16] Flatau, P., Lester, L., Brown, J.T., Kyron, M., Callis, Z., & Muir, K. (2022). '*High Net Wealth Giving in Australia: A Review of the Evidence*', Centre for Social Impact: UNSW and UWA. DOI, p.15: https://doi.org/10.25916/ranq-n886