COMMUNITY COUNCIL FOR AUSTRALIA

Submission to:

The Treasury

and

The Hon. Zed Seselja

Assistant Minister for Finance, Charities and Electoral Matters

CCA Federal Budget Submission 2020/21

January 2020

Introduction

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

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

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

CCA acknowledges both the need for fiscal restraint and the growing demand for government services. CCA proposes a major government revenue boosting measure (estate duty) as well as incentives to promote philanthropy and strengthen our communities (such as the French 90/10 superannuation rule).

If Australia is to be a just and fair society where we increase collective ownership of local issues and build flourishing communities, there needs to be a genuine commitment to supporting reforms across the charities and not-for-profit sector (NFPs) from government and other key stakeholders. This is not about providing more funding to the sector, but about encouraging and supporting more effective and efficient organisations delivering better outcomes for our communities.

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

The Community Council for Australia

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

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

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

Summary of proposed budget measures

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

1. **Provide Deductible Gift Recipient (DGR) status to all registered charities with an initial exemption of organisations for the advancement of religion, childcare, primary and secondary education.**
2. **Introduce a targeted 'estate duty' for people with estates valued at over $10 million with appropriate incentives for donations to charities, safeguards relating to family businesses and farms; and mitigation of any potential adverse impacts.**
3. **Implement the French 90/10 rule providing an option for all Australian employees to invest 5-10% of their superannuation into a not-for-profit social enterprise that benefits the community.**
4. **Fix fundraising regulations.**
5. **Boost sector investment and productivity by increasing certainty in government funding, concessions, incentives and regulations.**
6. **Develop and impose an additional 'capacity levy' on all Commonwealth funding of NFPs set at a minimum of 3% to support sector capacity development through; staff training and development, research and evaluation, and technical infrastructure improvements.**
7. **Increase philanthropy by enabling employers to establish more effective 'opt out' systems of workplace giving.**
8. **Work with the CCA and key stakeholders to promote uptake and investment in the future blueprint for the sector currently being developed by CCA and other partners.**
9. **Review the generous tax concessions provided to gaming, catering, entertainment and hospitality income for mutual organisations, especially licensed clubs.**

CCA believes these measures could be delivered within the next two years and produce a much stronger government budget position as well as building capacity and resilience in our communities. Australia cannot afford to ignore growing levels of debt, increased inequality and the need to support flourishing communities as a basis for improved productivity and well-being.

An economy that does not support real growth in opportunity is not serving the interests of our community. CCA believes every budget statement needs to be framed by what is going to deliver stronger, fairer, more creative, sustainable and connected communities.

Context: not-for-profit reform

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

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

The importance of the NFP sector is now being internationally recognised with many governments putting in place measures to increase NFP investment and productivity. Smaller government and bigger community is a common theme, driven in part by savings, but also by a commitment to strengthening democracy through greater civic engagement, providing incentives for social entrepreneurship and boosting productivity within the NFP sector.

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

The establishment of the ACNC is the first time the NFP sector has had an independent regulator dedicated to serving their needs and enhancing their capacity. It has proved to be a positive step towards red tape reductions, increased transparency, and trust in the community by prospective volunteers and donors. The national charities register has until recently also provided invaluable information.

While the immediate history of the NFP sector is framed by growth and reform, new issues are emerging. The level of individual philanthropic giving as a percentage of income has still not recovered to the highs of 2009. At the same time, revenue available to governments is effectively falling in real terms against a backdrop of increasing demands and higher community expectations. Competition for fundraising and services has increased.

Given the size of the sector and its critical role in our community, the Federal Government can achieve real economic and social benefits if it chooses to strategically invest in strengthening our communities and our NFPs. There have been numerous reports and recommendations relating to the NFP sector over the last decade, but relatively few have been acted upon. Governments seem reluctant to change established practices that promote competition between charities, increase compliance costs and contribute to growing uncertainty. These practices are all counter-productive for government and our communities.

Supporting the proposals outlined in this submission will make Australia stronger. Achieving a better return on existing government investments should also be a high priority. In the interests of all Australian communities, government should avoid inflicting any long-term damage on a sector that not only holds a vital place in our economy, but also strengthens communities, builds connectedness and increases productivity for all Australians.

Description of proposed budget measures

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

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

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

Funding to support this measure could come from savings through the recent capping of FBT entitlements for meals and entertainment expenses.

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

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

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

Until 1979, many Australian governments gained substantial income through various forms of death or estate duties. It is suggested that death duties ended because Premier Joh Bjelke Petersen wanted to attract retirees to Queensland and abolished all death duties. Other states followed. Until then the threshold had effectively been lowered over time to a level where many not so rich were also having to pay. As a consequence of these factors, in the late 1970s an estate duty was no longer seen as fair.

A better targeted approach to estate duties could address these previous failings and would be consistent with a fair go for all. Using a revised version of capital gains taxes and only applying it to those with estates above $10 million (excluding family farms and other appropriate asset exemptions) offers a workable option.

In Belgium estate duties contribute 1.4% of total government revenue which would translate into over $5 billion in revenue per annum for Australia.

Australia's growing gap between rich and poor, and the gap between government income and demand for government supported services, can both be partially addressed by applying a form of estate duty on the richest 1% in our communities. A targeted 35% estate duty on all estates over $10 million (with appropriate exemptions) would raise substantial new government revenue and stimulate philanthropy.

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

3. Implement the French 90/10 rule providing an option for all Australian employees to invest 5-10% of their superannuation into a not-for-profit social enterprise that benefits the community.

France has required all employees to be given the option of investing **5-10%** of their superannuation into 'solidarity organisations' (the equivalent of our charities) since 2001. In 2008 the government regulated that all super funds needed to provide this option to employees and since that time the amount invested has grown from $700 million to over $5.5 billion. This has stimulated social entrepreneurship, created opportunities to achieve social impact, improved the capital base and capacity of solidarity organisations.

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

CCA believes this measure could be transformative in encouraging the charities sector to find ways of establishing social enterprises that strengthen our communities. It would also link into the work of the Social Impact Investing Taskforce recently established by the government and provide a boost to impact investing into the sector.

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

4. Fix fundraising regulations.

This measure would save millions of dollars a year in red tape, duplication and dysfunctional compliance activities that provide no benefit to the community. Simply ensuring fundraising activities are covered by the Australian Competition and Consumer Commission (ACCC) would ensure any deceptive or misleading conduct associated with charitable fundraising, whatever the platform, could be closed down and perpetrators prosecuted. CCA and many other groups have repeatedly called for the fix fundraising solution to be implemented, but still charities languish in a bygone era of accountability that has little relevance or effectiveness, but costs charities millions in wasted effort.

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

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

This measure is focused on achieving a more stable financial and regulatory framework for all not-for-profits, particularly in relation to government funding and interaction with the sector. CEO Forums across the country run by CCA with the support of key organisations clearly showed that uncertainty of government funding is a critical barrier to investment in the future sustainability of organisations. This applies to not just recurrent government funding, but also tax including the losses associated with changes to FBT concessions and incentive programs. The government needs to actively consider initiatives such as:

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

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

Experience in other sectors has also shown that where an independent feedback process can be established that does not focus on public blame and retribution, system change in relationships can be driven through active feedback and better information exchange. CCA supports a national feedback exchange program where all NFPs could provide honest feedback on their dealings with government agencies. Providing avenues to pursue positive improvements in the relationship between governments and the NFP sector is important.

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

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

6. Develop and implement an additional 'capacity levy' on all Commonwealth funding of NFPs set at a minimum of 3% to support sector capacity development through; staff training and development, research and evaluation, and technical infrastructure improvements.

The Australian government invests billions of dollars in charities and not-for profits to provide critical services and supports to communities across Australia. Unfortunately, there is often little allocation of funding to enable funded organisations to improve their services through capacity development in critical areas like staff training and development, research and evaluation, and infrastructure including technological systems. While the government should not be solely responsible for sector capacity, it is important to acknowledge that increased productivity will only come if there is increased capacity to improve organisations and the way they operate. While many NFPs invest in their capacity, providing an additional 3% allocation on top of government funding to invest in appropriate and effective capacity building will ensure increased productivity and a better return on government investment into the sector.

CCA believe some of the funding provided through this measure should be used to ensure better co-ordination and sharing of best practice through centralised databases of available opportunities in critical areas like; staff training, program evaluation, systems development, etc. This centralised information sharing capacity could be seen as facilitating excellence across the sector and might involve a range of existing organisations creating a virtual Centre of Excellence for the NFP sector. It could also fund research into the NFP sector and support a cross-government advisory body like the NFP Sector Reform Council to improve government and NFP relationships. The details of how best to develop and apply this levy would need to be worked through with central agencies and government departments.

The annual budget for this initiative will depend on government allocations to NFPs, administrative budgets and the degree of existing expenditure, but may not require new additional expenditure.

7. Increase philanthropy by enabling employers to establish more effective 'opt out' systems of workplace giving.

CCA strongly believes that increased community engagement and philanthropic contributions to NFPs produce a net benefit to governments as well as to the communities NFPs serve. It is counter-productive to treat increased philanthropy and social impact investment as a government loss of potential tax income or 'foregone revenue'. The whole community benefits when individuals or organisations choose to direct their resources into strengthening communities, increasing economic and social activity, and improving health and well-being. This is particularly the case if the money involved avoids the significant transfer costs of moving into, through, and out of government. Philanthropy and social investment are about encouraging greater ownership of local issues by enhancing the role of NFPs and reducing the size of government.

When in place, 'opt out' systems have ensured much higher levels of success in workplace giving programs. The experience with the French 90/10 superannuation rule shows that once all employees are given the option, the amount being contributed to charitable purposes increases significantly. With the current 'opt in' for existing employee systems, less than 3.5% of Australian workers are in a workplace giving program. If this could increase to 10% of Australian employees donating 0.5% of their pre-tax income, over a quarter of a billion dollars would be raised through workplace giving. This is a realistic target that would increase philanthropy and the engagement of Australians in the broader NFP sector.

CCA anticipates there would be no additional costs to government in this measure.

8. Work with the CCA and key stakeholders to promote uptake and investment in the future blueprint for the sector currently being developed by CCA and other partners.

The future of Australia's NFP sector is too important to our economy and our communities to grow in an ad hoc manner with little comprehensive planning or strategic investment. CCA is working with partners to develop a blueprint for the charities sector. At present there is no plan, no strategy and no real projection about the future viability or even the sustainability of the current levels of growth across the NFP sector. The effective development of a blueprint will include developing clear goals and measures of what the NFP sector is seeking to achieve. Additional government support to market and advance the blueprint once completed, would enable the blueprint to be much more than a list of desirable activities and outcomes.

With the Federal Government as a joint partner and supporter (and not the sole contributor), the completed blueprint could become a touchstone for sector investment from government, philanthropists, business and other stakeholders.

CCA anticipates the cost to government of supporting the national campaign to promote the value of investing in charities would be in the order of $350,000.

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

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

– integrity concerns about member and non-member receipts;

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

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

– concerns about private member benefit.

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

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

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

CCA anticipates this measure could generate significant additional government revenue.

Budget implications (costings)

CCA acknowledges the need to ensure an effective economic framework for all Australian governments that serves the needs of our various communities. This budget submission has taken into account the need to increase government revenue through sustainable measures that have minimal impact on productivity, to reconsider inappropriate taxation concessions, and promote measures that will diversify the income of charities and not-for-profits enabling a rebuilding of capital, and an expansion in their capacity, without increasing government expenditure.

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

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

Conclusion

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

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

There is a strong case for reform in the charities and not-for-profit sector to build more resilient communities through greater engagement in our society and our economy. Over the past two decades, the NFP sector has had limited support to improve capacity and effectiveness. This is despite the very considerable contribution the broader NFP sector makes in terms of employment, productivity, individual and community well-being.

The harsh reality for most governments is that government income levels are stalling while demand for services continues to increase. Part of the solution to this tension is achieving real productivity within government and the NFP sector. Delivering positive change for NFPs requires an initial investment in time and resources to boost capacity and offer the certainty required for organisational investment.

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

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

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

Current Membership – Community Council for Australia *Attachment A*

Access Australia's National Infertility Network

Adult Learning Australia

Alcohol, Tobacco and Other Drugs Association ACT

Arab Council Australia

Australian Conservation Foundation

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

Australian Major Performing Arts Group, Bethwyn Serow, Executive Director (CCA Board Director)

Australian Scholarships Foundation

Australian Women Donors Network

Barnardos Australia

Carers Australia

Centre for Social Impact

Church Communities Australia

Churches of Christ Vic and Tas

Community Based Support (Tas)

Community Broadcasting Association of Australia

Community Colleges Australia

Connecting Up

Diabetes NSW & ACT

Endeavour Foundation

Ethical Jobs

Everyman

Feanix Foundation

Foresters Community Finance

Foundation for Alcohol Research and Education

Foundation for Young Australians

Fragile X Association of Australia

Fundraising Institute Australia

Good Samaritan Foundation

Good2Give

Hammondcare

Healthy Options Australia, Jody Wright, CEO (CCA Board Director)

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

Justice Connect

Kilfinan Australia

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

Lock the Gate

Mater Foundation, Nigel Harris, CEO (CCA Board Director)

McGrath Foundation

Menslink

Mission Australia

Missions Interlink

Non Profit Alliance

Our Community

OzHarvest

Painaustralia

Philanthropy Australia

Pro Bono Australia

Queensland Water & Land Carers

Ronald McDonald House Charities

RSPCA Australia

SANE

SARRAH

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

Settlement Services International

Smith Family, Lisa O'Brien, CEO (CCA Board Director)

Social Ventures Australia

St John Ambulance

Social Leadership Foundation

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

Uniting Church in Australia, Synod of Victoria and Tasmania

Volunteering Australia

Wesley Mission, Keith Garner, CEO (CCA Board Director)

Workplace Giving Australia

World Vision Australia

World Wide Fund for Nature Australia

YMCA Australia