AUSTRALIAN COMMUNITIES FOUNDATION

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Director, Not-for-profit Unit
Individuals and Indirect Tax Division
The Treasury
Langton Cres
Parkes ACT 2600
Via email to: charitiesconsultation@treasury.gov.au

Dear Sir/Madam,

Response to Treasury consultation on distribution rules for ancillary funds

The Australian Communities Foundation (ACF) has been in operation for 25 years and is a not-for-profit community foundation (PuAF) committed to helping philanthropic individuals and organisations support community causes and initiatives they care about. We appreciate the opportunity to comment on the consultation paper re possible reforms to the distribution rules for ancillary funds.

In 2020/21, our community of over 450 funds and foundations distributed 1085 grants to 688 organisations and individuals. Together, we granted $12m and this represents 9% of our total corpus. For many years ACF has distributed significantly more than the annual mandatory minimum distribution and this demonstrates our donors' commitment to making sure their philanthropic dollars are reaching those organisations working towards a fairer, more sustainable Australia.

Please find our response to the two key issues raised for discussion.

Sincerely,

Maree Sidey

Chief Executive Officer

Accumulating funds to support large projects

In principle, ACF strongly supports the requirement that Ancillary Funds (AF) should be required to make minimum distributions annually and not be able to preserve their capital in perpetuity. This is essential to ensure that philanthropic funds reach the organisations undertaking charitable work. However, we recognise that there can be circumstances in which an AF would want to accumulate funds for a period of time in order to support a large project.

ACF supports the proposal to amend the relevant guidelines to allow both PuAFs and PAFs to accumulate funds for large projects. However, this should only be for a limited period of time and if there are appropriate controls in place to ensure that there is no overall reduction in the amount which is distributed over that period of time.

In general, we endorse the responses in the submission provided by our peak body, Philanthropy Australia, to questions 1-6 in the discussion paper. We agree that the accumulation period should be no more than five years and that the accumulated funds should be required to be distributed to other eligible entities if the original project does not proceed or if the AF makes a subsequent decision to no longer proceed with funding the project.

ACF also supports Philanthropy Australia's approach which involves allowing AFs to 'spread' their distributions over five years, with approval from the Commissioner only required when the reduction to the annual minimum distribution exceeds an agreed percentage. To ensure accountability, the AF should be required to specify any amount that is being 'spread' as part of its annual return and to report when such an amount is distributed.

Flexibility in transferring assets between ancillary funds

ACF is one of the 28 community foundations that will receive specific listing as a DGR1 as outlined in the 2022-23 Budget. This greatly enhances our capacity to both harness PAF funds to achieve ACF's mission of working towards greater economic, social and environmental justice in Australia and beyond.

In the longer term we believe that the granting of DGR1 status to community foundations must be enshrined in legislation. ACF, like other community foundations across Australia, plays an important role in organising and supporting our donors to make philanthropic grants to organisations working in areas of geographic need and to address issues of health and wellbeing. Having our DGR1 status guaranteed through legislation will enable us to more effectively plan our grantmaking program and to advise and support the sub-funds and foundations we work with.

ACF also supports the extension of greater flexibility in transferring assets to other PuAFs. That is, PuAFs generally should be able to receive assets from other PuAFs and PAFs. We do not support PAFs being able to receive assets from PuAFs – that is, the transfer of funds from a public to private entity.

The model proposed by Philanthropy Australia in its submission addresses the current restrictions in a way which ensures that philanthropic funds continue to be distributed to DGR1 charitable organisations in a timely manner. Accountability would be achieved by requiring the AF to report on the assets received from other AFs as part of its annual return.

Other matters warranting attention

ACF also endorses the suggestions put forward by Philanthropy Australia to reform other aspects of the AF regulatory framework, including:

- Insertion of 'material' before benefit in the Guidelines.
- It is only the sub-fund of a PuAF that is applying to transfer assets to another AF that is required to fulfil their minimum distribution requirement before applying, rather than the PuAF as a whole.
- Clarification of valuation process for unlisted shares
- Clarifying options for multi-year grants