



19 May 2023

Productivity Commission
Attention: Karen Godfrey
Via: Online Submission

Dear Sir/Madam

JBWere Submission – Productivity Commission Philanthropy Inquiry

Please find attached our submission in relation to the Productivity Commission's Inquiry into Philanthropy. This is an important and timely review, and we thank the Commission for affording us additional time to submit our thoughts and suggestions.

The JBWere Philanthropic Services team has been conducting research and advising for-purpose and philanthropic clients since 2001. We provide advice to more than 500 clients who have entrusted more than \$13bn to JBWere – this money exists explicitly to support the delivery of social and environmental outcomes. In preparing our response we have utilised the decades of experience within the team and canvassed the view of our clients, connections, and collaborators across the broader social impact ecosystem.

As noted above, the timing of the review is significant. Philanthropy, and the broader for-purpose sector it supports, is evolving quickly to meet many large, complex challenges facing the community and the economy. Although high net worth giving and corporate philanthropy is growing, the largest segment of philanthropy and volunteering is still the 'general' population ('mass market' for the lack of a better term) – and this philanthropy is under pressure.

These changes in the shape of philanthropy will have a significant impact on the types of programs, initiatives and organisations that receive funding.

Beyond sharing our observations and insights, we have used our expertise and experience to provide suggestions that we believe will enhance philanthropy in Australia, and thus lead to better outcomes for society. We would be pleased to continue to offer support through the Review's process and look forward to seeing this opportunity to improve philanthropy in Australia realised.

Yours sincerely

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PUTTING WEALTH TO WORK FOR GENERATIONS

Introduction

JBWere is pleased to provide thoughts and suggestions for the Productivity Commission's Review of Philanthropy. The Review is important and timely.

The need to recognise the importance of philanthropy to the effective operation of the for-purpose sector is critical. The funding it provides is different to other sources of income in that it can and often should play the role of the innovator and risk taker, a role other income sources are mostly unable to play. While philanthropic investment has been relatively steady at around 7% of charities sector income since 1995/96 (Australian Bureau of Statistics (ABS) and Australian Charities and Not-for-Profits Commission (ACNC), its influence on improving impact through research and innovation is far greater. When we add the even larger value of volunteering by often those same donors, the sector would break without this support.

The timing of the Review is significant. There is a need to address the fall in the proportion of the population donating (as measured through ATO tax returns) and the proportion volunteering. In JBWere's 2018 work on philanthropy in Australia, *The Support Report*, we had this issue as our first of many in a summary wish list for the sector. Although broad mass market philanthropy is lagging the growth rates of other donor segments, it still represents around half of all philanthropy and arguably provides the most democratic decisions on which causes should be funded due to the number of funders compared to structured philanthropy, bequests or corporate community investment.

This is not only an Australian problem. Our research shows similar declines in other countries including the USA, UK, and New Zealand. We feel Australia, as a country positioned between the high (USA) and low (Scandinavian) extremes of reliance on philanthropy and as one who responds so positively during natural disasters, is well placed for a national giving campaign. We could position ourselves well for a broad conversation and support towards increasing our connectedness through giving and volunteering that sees all benefit, including the donor and not just one group supporting another in need.

Australia is at the start of a never-before-seen intergenerational wealth transfer as the population ages. While this places stress on future budgets, it also offers the opportunity for greater philanthropic support and some reduction in the problematic increasing wealth gap seen in many developed nations. A continuing increase in the number of annual deaths combined with higher property and financial asset values suggests now is the time to make it easier and encourage more giving both before and after death. However, our current system offers no incentives for achieving this and indeed discourages giving through the increasingly important superannuation system.

The introduction of Private Ancillary Funds (PAFs) in 2001 accelerated structured giving in Australia however they are only 22 years old compared to the Modern Private Foundation available in the US since 1969. It's wonderful that we now have PAFs but consider what giving could have been had they been in existence for over 50 years. We shouldn't look back with regret on these intergeneration bequest opportunities post our demographic change when now is the time for their introduction.

JBWere has attempted to focus on some of the most important opportunities for the Review. We have structured our response in line with the 11 information requests from the Commission recognising the three broad tasks assigned to the Commission:

- *Analyse trends in philanthropic giving in Australia and the drivers of these trends*
- *Identify opportunities for, and obstacles to, increasing philanthropic giving in Australia*
- *Recommend ways to respond to these opportunities and obstacles.*

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The main suggestions for the Review and further detailed in our response are summarised in order of information request below:

- Make a live data cube available for full ACNC AIS returns including financial details.
- Introduce a living bequest system.
- Remove the “death tax” on superannuation intended to be left to charity.
- Allow superannuation left to charity to provide a deduction/offset to the “death tax” for non-dependents.
- Consider allowing tax deductions above 100% for donations made to selected causes during times of greater need.
- Implement the recommendations of the Social Impact Investment Taskforce.
- Continue the flexible distribution levels available to ancillary funds during COVID.
- Develop a Centre for Social Measurement to better and consistently measure, value and reward social impact.
- Improve the knowledge/advice from professional advisers about philanthropy options, partly by increasing the donation options available to their clients.
- Improve the availability and use of existing data (e.g. PAF distributions) on philanthropy, already collected.
- Reinstate “main activity” and adding bequest and corporate community investment data as part of AIS returns.
- Fund and helping establish a National Giving Campaign.

JBWere has researched the for-purpose and philanthropy sectors since establishing our dedicated Philanthropic Services division in 2001. We would be pleased to continue to offer support through the Review’s process and look forward to seeing this opportunity to improve philanthropy in Australia realised.

Information request 1 - Defining philanthropy and the inquiry's scope

True to its definition, it should capture all acts that seek to help others – specifically picking up volunteering of time and talent which is critical to a functioning society. While financial support is often the focus of giving, the value of volunteering (as measured by the ABS) is greater and the relationship between the two is strong (Giving Australia and QUT research). COVID had and is still having a big impact on volunteering but even before then, rates were declining (ABS General Social Survey). Volunteering should be included in this Review encompassing corporate volunteering, which can be many people's main gateway, and what new workplace arrangements might mean for traditional volunteering models.

Based on our deep engagement with philanthropic and for-purpose clients across Australia, it is worth noting that the word 'philanthropy' can often be disengaging as some find the term somewhat elitist and inaccessible. It is not a common term in non-western cultures and societies, and this is important to recognise when engaging many cultures (e.g. First Nations, South-east Asian) where what may be considered altruistic in modern Anglo-centric cultures, is accepted as obligations/duties to family and community.

It is important to recognise the different capabilities and influences for giving as people age. Studies in the USA (Patterns of Household Charitable Giving, The Centre on Philanthropy at Indiana University) showed causes supported changed with income level and you could infer, with wealth and age. Understanding the importance of peers and the visibility of their giving is important and was one of the main reasons JBWere began analysing giving by publishing the '50 largest Australian private donors in 2017' which has featured in an annual Philanthropy special in the Australian Financial Review (AFR) for the last seven years.

Not only is visibility important, so too are the methods available to suit people at different stages of life. Areas such as crowdfunding, workplace giving and incentives for bequests will be critical for people at different stages of life and should be available, promoted, and easy to access.

Information request 2 - Vehicles, trends and motivations for giving

Data sources on giving have improved dramatically since the ACNC began collecting the Annual Information Statement (AIS) from charities from 2014. While ATO data is very useful for location, age, gender and income analysis, the ACNC adds cause data. The major gaps are the inability to link the two data sources, their timeliness (with 2021 data not yet available for either) and the lack of detail on non-deductible giving such as bequests or corporate giving inside the AIS. In addition, the ACNC data cube, available through www.data.gov.au, isn't available as a live document, including the AIS returns, as it is in New Zealand. Improving this would be a simple way of providing up to date annual searchable information for the overall sector.

The *JBWere NAB Charitable Giving Index* provides a timelier view of individual giving through NAB transaction data using various payment methods such as EFTPOS, credit cards, BPAY and PayPal and can be broken up by location, cause and month. It does not include cash and direct transfers and doesn't cover the entire financial system but is a good current guide to trends, particularly during upheavals to giving as seen during COVID. In addition, the JBWere analysis for the AFR Philanthropy 50 provides information for major donors in scale, cause and annual trends. In addition, the top 50 donors for Corporate Community Investment as published annually by the AFR's BOSS since December 2020 and researched by JBWere and Strive Philanthropy shows trends for corporate giving in Australia. This area was further researched in the recent JBWere publication, *The Corporate Support Report* which looked at longer term local and international trends, motivations and factors needed for success.

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Analysis by JBWere in Australia (using ACNC data) and New Zealand (using Charities Services data) highlighted the importance of name recognition and by inference organisational size, for donors. The largest organisations are disproportionately the recipients of giving with 90% of donations going to the top 10% of organisations by size. For bequests, this becomes 95% going to the top 5% (New Zealand data only). This highlights the need for continued improvement in the ease and ability for donors/advisers to understand and research the for-purpose sector. The ACNC has begun this task but more needs to be done and adequate funding made available.

One of the biggest opportunities for philanthropy in Australia is to improve the rate of bequests made to the for-purpose sector. We currently sit at half the rate of the US and UK due to several factors with only an estimated 7% of wills leaving a bequest to charity (Giving Australia 2016). Two of the main reasons are our culture and history for giving this way not being strong or long enough plus the lack of financial incentives to act this way. These two elements are related and while we cannot quickly change the former, there are proven ways to improve the latter. The living bequest system in its many forms in the US, provides an incentive to leave a future bequest to charity. By entering into a contract during your lifetime to leave the bequest, the donor receives a partial deduction now, regulated by the IRS. While not the full value of the future bequest and determined by the nature and likely timing of the gift, it provides an incentive. The discussion and influence of current or future inheritance taxes also plays a role in Estate planning. This living bequest system should again be considered in Australia.

Another solution would be to remove the 'death tax' from superannuation funds intended to go to charity. Currently superannuation funds remaining at death and intended for charity cannot be included in a binding death nomination. The only way to achieve that outcome is to either remove the funds from the superannuation system before death (often difficult to predict) or to give it to your Estate, which as a non-dependant, will attract the 15% plus 2% Medicare 'death tax' before it goes to the charity. If we want to improve Australia's rate of bequests to charity, this impediment to gifting part of one of peoples most significant assets should be removed.

An even better system would be to encourage the giving of a proportion of superannuation to charity by providing a deduction/offset for that gift against the 'death tax' paid by non-dependants (e.g., adult children). This could be at the full rate of potential tax or just at a proportion. This would dramatically improve the level of bequests made to charity just at the right time to capture the intergenerational wealth transfer in Australia. Further it would encourage financial planners to actively include bequests to charity in Estate planning discussions as a good financial strategy rather than as currently being a nice thing to do.

Information request 3 - Role of government in philanthropy

The Federal Government should be more transparent not just on the areas it funds but the outcomes it is seeking over the long term in those areas. This provides clarity to the philanthropists and for-purpose organisations who can then direct philanthropic dollars towards complementary initiatives or innovative programs aimed at delivering outcomes in an aligned manner. Given the structural Government deficits forecast, the large scale of corporate profits and the increasing wealth inequity across households, supporting philanthropy is critical to the delivery of services and poverty alleviation facing society.

That said, the Government may wish to change the level of deduction applied to donations of different types to incentivise the flow of capital into areas of critical need (e.g., temporarily increasing tax deductibility to certain causes to say 125% during a natural disaster which could be achieved through the charity receipting process).

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The role of innovation and risk taking that philanthropy and impact investment can play, but other funding such as Government or fee for service income usually cannot, should be recognised. Implementing the recommendations of the Social Impact Investment Taskforce could play a major role in encouraging more of the growing pool of philanthropic capital in particular, being invested in for-purpose projects above the level of grant making already committed.

Information request 4 - The Deductible Gift Recipient (DGR) framework

It is often confusing for the public to see a registered charity and then be informed they do not have DGR status. The majority of other similar countries (UK, New Zealand, USA) do not make that distinction with all charities receiving tax deductible/credit status. It is interesting to note the emergence of DGR organisations in areas such as education, sport and international aid that enable donors to support organisations/projects that would otherwise not have been able to attract tax deductible donations. Additionally basic religious charities (charities but not DGRs) receive around 20% of donations in Australia, whereas this is 30% in the USA and 40% in New Zealand which both offer tax concessions for that particular cause area.

Recognising that impact is being developed in areas beyond just charities and the changing shape of the for-purpose sector with many looking towards hybrid models of operation (social enterprises etc) it is worth considering if all parts of the charity and DGR regulations are still fit for purpose and accommodate these new models.

There are some concerns amongst recipients that raising the \$2 limit could disadvantage smaller donors.

The current DGR framework can be inefficient because there is no onus of the applicant to clearly identify why this new organisation is needed to address the issue or provide support to a community given the already existing DGRs and other charities. This can lead to replication and duplication of effort and ineffective application of resources. However, the DGR categories need to be reviewed and updated to be relevant given the evolving nature of how change is created in complex social ecosystems. For instance, some organisations play a connection and convening role across a cause area, creating good practice, and aligning efforts and collaborations to deliver impact but this activity does not categorically fit into a DGR table activity. Consider also place-based organisations with multiple activities (some on the DGR table and some not) which, based on research they know to deliver positive outcomes in a community – currently they effectively must just pick one thing from the list and their fundraising is then limited to that activity.

Information request 5 - Other tax concessions for not-for-profit organisations

In the *JBWere Cause Report* we observed that employee/wage costs in the for-purpose sector had remained reasonably steady at just over 50% of total expenses over the last 25 years. Further, in our recent *JBWere Corporate Support Report* we saw that the equivalent proportion of costs in the for-profit sector was just under 20%. Industries and business models vary widely between the two sectors, but average wages are well below in the for-purpose sector and staffing is a greater part of operations. This combination makes it difficult to find and retain staff. While it highlights the importance of volunteers, in this context it also points to the value of concessions such as FBT available to the sector to help bridge these gaps. In particular, the benefits the for-purpose sector receives around salary sacrifice for employees allows them to more adequately compete in securing and retaining talent in their organisations.

Information request 6 - Unnecessary regulatory barriers to philanthropic giving

There are challenges working across different jurisdictions in Australia as the regulatory environment varies and is duplicated particularly around fundraising. This is blurred even more so with online fundraising activities. We note and welcome the Government's intentions around greater harmonisation.

The ability for ancillary funds to increase giving during COVID and partially reduce subsequent years distributions was welcomed. This temporary change should be an ongoing feature of the guidelines and would then be available not only during times of emergency but also for the funding of larger one-off projects that donors may wish to support. While there is already an ability to distribute greater than the required minimum, prudent long term financial management may suggest not committing to those projects unless there was an ability to smooth distributions over several years.

We have included our comments on the challenges of superannuation being donated to charity on death and on the opportunities available through 'living bequests' in information request 2.

Information request 7 - Consumer information on the effectiveness of not-for-profit organisations

Transparency and effectiveness as principles are important in maintaining public trust in the sector and for confidence between organisations collaborating in cause areas. However, there is a danger in being too simplistic with measures such as administration or fundraising costs often quoted and used as a very poor proxy for effectiveness. We discuss the need for a social measurement Centre in information request 11.

The ACNC should be encouraging the collection of data relating to beneficiaries, clients, locations, and outcomes as part of its annual review. Donors are often looking to fund outcomes for specific cohorts, often in specific area (e.g., those impacted by family violence in regional Queensland). The collection of these data points would allow funders to find the right partners in the right places who are working towards their aligned outcomes.

Effectiveness is a tricky concept because a lot of information is required to make such an assessment – for instance the cost of an outcome is highly influenced by the cohort chosen, the location, the scale of the organisation, the design of the program, the accounting methodology applied etc. These can be manipulated and in fact should be different. It is more valuable to publish a guide of the type of questions a philanthropist might ask to understand a program and thus determine its effectiveness.

Information request 8 - Other measures to support potential donors

The lack of broad-based education on current philanthropic opportunities, such as PAFs, highlights the need to widen the knowledge base of the public and their advisers in these areas. Changes to opportunities such as through 'living bequests' and superannuation planning on death as discussed in information request 2, would have the benefit of engaging professional advisers in the discussion. Having a broader range of options to present to their clients and forums where these are discussed can only increase their acceptance and use.

While the current number of PAFs (around 2,100) is very useful to the for-purpose sector, our analysis of both wealth and income levels in Australia suggest there should be over ten times this number. A lack of knowledge amongst potential founders and their advisers is one of the main reasons for this yet to be realised opportunity. Causes that have actively promoted PAFs to their supporters (e.g., Arts) are enjoying a greater share of annual distributions from that pool. Adding giving options to more commonly discussed financial arrangements such as superannuation and Estate planning can only increase the level of discussion, understanding and acceptance of various giving options.

Information request 9 - Cost-effectiveness of public data sources

As there is a need to balance the cost and usefulness of new data collection, there should firstly be an effort to make sure we are using existing data well. Adequately funding analysis of existing data provided on annual PAF distributions should be a priority for the ACNC/ATO. Currently, this rich data set is at best, poorly analysed and occasionally not used or recognised at all. While currently, not all PAFs are required to be individually shown on the ACNC site (unlike their US equivalent), there is no reason their collective totals shouldn't be better analysed.

Removing the "main activity" reporting requirement in the AIS makes it more difficult to compare internationally where the International Classification of Non-Profit Organisations (ICNPO) is commonly used. This should be reinstated. Even better education is still required from the ACNC on the use of charity sub-types and charitable purpose for both individual compliance and overall sector analysis. The wealth of information held through the AIS is not yet at an 'easy to use' stage for many observers.

We currently have no definitive way of measuring the value of annual bequests to charity in Australia. While most charities know this value and many record it in their own financial reports, there is no centralised source. Its inclusion in the AIS would be valuable, particularly as it would be available annually and by cause. If reporting were considered onerous, then perhaps just the large income charities could report, although it would be much better for all to report. It would also be important to have this information available as we move through the intergenerational wealth transfer and particularly if we make the positive changes to living bequests and superannuation benefits recommended in information request 2 to understand the scale of change achieved.

Given the scale, it would be useful to understand the level and type of corporate support for the sector. While this can range from cash donations to goods and services, time, skills, use of assets etc we do not have a centralised collection point for this information. Many companies report their own contributions, often in sustainability reports, but do not break it up by cause or organisation supported. Like bequest data, this is one of the missing pieces of the philanthropy jigsaw.

There is an anomaly that the Government has created in the governance for first nations peoples through the CATSI Act and its application through ORIC. Section 246-25 of the CATSI ACT 2006 requires 'a director of an ATSI corporation must not be appointed for a period exceeding 2 years and an application is required to gain an exemption. This creates an environment of poor governance by creating significant turnover that is not imposed on any other corporations, and in fact is considered poor governance practice. It also does not consider cultural governance practices in first nations communities. This is not good governance and may in fact deter any funders or partners of these organisations due to the lack of continuity in leadership, and the negative impact this has on delivery of long-term outcomes.

Information request 10 - Public strategies to increase the status of giving

As highlighted in our introduction, the single largest problem facing philanthropy in Australia and other countries such as New Zealand, UK and the USA is the decline in the proportion of the population donating and volunteering. It is fortunate that those continuing to donate are doing it with increasing generosity, meaning that total donations are growing. However, given the important role of philanthropy to the for-purpose sector operating model, it would be wonderful to try and arrest this participation decline. A co-ordinated, well designed and funded National Giving Campaign highlighting not just the need for but the value of giving and volunteering to both the donor and the recipient is well overdue. Highlighting the co-dependence for individuals, corporates, and Government on a well-functioning and supported for-purpose sector is a high priority.

Information request 11 - Identifying and assessing reform options

The most challenging part of the for-purpose sectors financial model is the low financial operating margin. A study in *The Corporate Support Report* showed 2019 pre-tax profit margin for charities was 6%, half that of the corporate sector. This slows or prevents adequate innovation and improvement. Unlike the for-profit sector, the for-purpose sector is only reimbursed for the good it does, not rewarded. There are only small margins, and the sector is usually a price taker rather than a maker. Usually, philanthropy is the main source of innovation or risk capital available.

One of the options to improve this dire situation is to adequately value the social returns achieved by the sector with a view to applying a financial value to them and having the sector adequately rewarded for its successes. Funding for this measurement, whether by social return on investment (SROI) or other formats is difficult to find and when available not efficiently done across cause areas leading to confusing or debateable claims on individual study's findings. A funded Centre that undertook this analysis could increase sector efficiency and raise operating margins by leading to funding and payments at the true value of the social impact achieved and not just the cost of providing a service. As the major funder to the sector, Government would also benefit from this better rigour around social returns.



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About JBWere

JBWere provides a wide range of investment advisory, research, and wealth management services to a substantial and diversified client base. We have over 500 staff and offices in Melbourne, Sydney, Brisbane, Canberra, Adelaide, Perth, Auckland, Christchurch, and Wellington. Our clients include for-purpose groups and organisations, Government bodies, financial institutions, high-net-worth individuals and families across Australia and New Zealand. We are proud to be the leading provider of philanthropic, governance, strategy, and investment advice to the for-purpose sector, who have entrusted us with more than \$13 billion of their financial assets. Since 1840, JBWere has provided world-class investment advice and superior service to our discerning clients. Our reputation as a market leader is founded on our commitment to excellence, our diverse service offering and the expertise of our people. JBWere has evolved over the decades from a privately owned Australian partnership and is now 100% owned by National Australia Bank. We have research alliances with UBS, MSCI and Moelis Australia. To discuss how we might be able to work with you please contact us on 1300 263 166 or Philanthropic.Services@jbwere.com

About NAB

For 160 years, we've been helping our customers with their money. Today, we have more than 30,000 people serving nine million customers at more than 900 locations in Australia, New Zealand and around the world. As Australia's largest business bank, we work with small, medium, and large businesses to help them start, run, and grow. We fund some of the most important infrastructure in our communities – including schools, hospitals, and roads. And we do it in a way that's responsible, inclusive, and innovative. You can find out more about how NAB backs our community by visiting: nab.com.au/backingcommunities