



## **IMPROVING THE INTEGRITY OF PRESCRIBED PRIVATE FUNDS THE TREASURY – DISCUSSION PAPER, NOVEMBER 2008**

### **SUBMISSION BY THE BALNAVES FOUNDATION - December 2008**

The Balnaves Foundation (“The Foundation”) was created in 2006 by its founder Mr Neil Balnaves. Already funded with over \$30M it has an agreed target accumulation plan of \$50M. A more complete background can be found at our website [www.balnavesfoundation.com](http://www.balnavesfoundation.com).

Over the last two years ended 30 June 2008, over \$3M has been donated to charitable causes in Australia. The Foundation supports organisations that aim to create a better Australia through education, medicine, and the arts with a focus on young people, the disadvantaged and indigenous communities.

We have read the Treasury submission and are grateful for the opportunity to provide our views on the proposals. Whilst there are elements within the proposal which we support including the proposed simplification of the distribution calculation, we also see several elements, particularly, the enforced distribution of 15% of the corpus, as being detrimental to the continued work of the Balnaves Foundation into the future.

#### *Background to projects*

The Foundation’s policy is to enter long term funding arrangements with charities and DGRs to provide funding over a specific period of time as a project partner. Our focus is on targeted support where we can measure the benefit of our participation and play a role in the development of the project and management of its objectives.

The development of many projects we fund requires certainty of future funding over several years on the part of the DGR in order for these projects to commence. We hope that we are able to continue supporting these projects for many years to come.

Our website includes a summary of the projects we have funded and continue to fund.

#### *The Affect of the Proposals on the Balnaves Foundation:*

- The establishment of the PPF is a way for the Balnaves family to strategically engage with the community. Both Neil and his wife Diane sit on the Board and help identify projects by their understanding of issues and its relevance to the community. In addition, their three children, Alexandra, Hamish and Victoria are involved as Board members.

#### **BALNAVES FOUNDATION PTY LTD**

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- It has always been their intention that their children be trained to administer the Foundation and thereby create future generations of Australian's that have a positive view about Philanthropy.
- Due to the level of its commitments, the Foundation also employs two staff to help administer the Foundation, whose role includes vetting and monitoring of projects to ensure that they are managed effectively and achieve the outputs we desire from our participation.
- It is doubtful whether the PPF would have been established under the rules suggested by this Discussion Paper, in particular if PPFs are compelled to: distribute as much as 15% of the closing value of the fund each year, effectively eliminating perpetuity.
- The proposal to distribute 15% per annum is inconsistent with the original rules under which our Foundation was established.
- The rules suggested in Treasury's Discussion Paper will likely:
  - close down the majority of existing PPFs within a 15 year period; and
  - result in very few new PPFs being established.
- One of the major reasons for establishing our PPF was for the family to engage with the community in a strategic way over a long period of time, hopefully including many generations. Depending on various assumptions, a distribution rate of 15% per annum will result in the Foundation having an immaterial corpus within approximately 10 years, resulting in the Foundation being closed.
- Philanthropy requires a long term approach to major issues facing the community. Lack of perpetuity will make this very difficult and certainly result in a short term focus.
- We agree that the current PPF Guidelines are ambiguous and we welcome the abolishment of accumulation plans. We further agree that for simplicity PPFs distribute a minimum amount each year based upon the market value of the PPF's net assets at the close of the previous financial year. We agree that this would provide greater certainty to PPF trustees and provide more consistency to giving by PPFs. We believe such clarity, at a distribution rate which allows perpetuity of the foundation, will also lead to an increase in the establishment of PPFs.

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- We believe a reasonable distribution rate to be 5% per annum. This will ensure at least 5% of the corpus reaches the community each year and allow the Foundation to accumulate funds over a reasonable period of time so that the annual distribution can be meaningful in amount. This will maximise the long term benefit to the community. It is similar to the rate used in the USA.
- If PPFs are required to publicly provide their contact details we would be inundated with requests for funds. We understand that there are over 20,000 deductible gift recipients ('DGRs') in Australia. Notwithstanding that a proportion of these may be ineligible to receive gifts from a PPF, once a list of PPF addresses is made publicly available we would expect a vast number of these DGRs would likely write to each PPF seeking funding. We envisage that we would be inundated with funding requests which would significantly affect the staff time needed to be employed to manage this process. This would have a material adverse impact on grants made by the Foundation each year.
- We foresee this resulting in a significant waste of resources for charities. We would imagine that we will receive requests for many projects which fall outside the mission and scope of the Foundation.
- We should be encouraging families to commence traditions of giving, not discouraging them, as the proposals in the Discussion Paper will do.
- For those with PPFs with a corpus at or near \$500,000, emphasis should be made that you intend to grow the corpus over time to the benefit of the community and that it would be a disservice to the community to stifle such community spirit by closing the PPF simply because the corpus fell below \$500,000.

### *Conclusion*

We wholeheartedly support improvements designed to improve and enhance the integrity of the operation of PPFs.

As a Foundation, we actively seek undertakings from charities and DGRs to whom gifts and donations are made that they will use the funds in accordance with the projects purpose and intention and recognise that we are essentially acting on behalf of the community and have a responsibility to the community to see that the Foundation's funds are employed effectively and efficiently.

If the Government is keen to improve the integrity of PPFs we would support the Australian Taxation Office taking a more direct approach to the governance of the distribution of a PPF's funds if this is perceived to be the abuse of the PPF process

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which has occurred to date, rather than the enforcement of proposals which have the affect of crippling the sector.

We are, particularly concerned that the proposed rate of distribution will significantly affect the Foundation's ability to contribute meaningfully if the proposed 15% distribution rate is enforced. This will inevitably act as a disincentive to generations, to participate or be able to participate in the future of the Foundation or the creation of Foundations in the future.

As a consequence, the burden placed on Government will only increase as this significant and growing support sector for the community gradually withers away.

Yours faithfully

**NEIL BALNAVES**

For and on behalf of The Balnaves Foundation

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