**Submission to the *Legislating the Objective of Superannuation* Consultation Paper**

From Emeritus Professor John Wanna (ANU and Griffith University)

I wish to make a public submission to this government proposed changes to superannuation.

First, as a public policy scholar I am totally unsure what is the 'problem' your consultation paper is meant to be addressing. You do not state clearly what the 'problem' is nor why is it a 'problem'. I am left unconvinced that there is an actual 'problem' at all.

The initial point I would raise is that superannuation is not the government's money, it is the hard-earned money compulsorily placed into saving and investment returns by and for superannuants. This is a fundamental element that appears to have been deliberately overlooked or disregarded in the consultation paper. With superannuation compulsorily sequestered from working people for many years (and invested in predominantly non-governmental superannuation funds), they then have to wait for many decades before they can access their funds. Trust and public confidence are fundamental to the operation of superannuation as a retirement system, and governments that do not honour that trust do so at their peril.

Why change the objectives of superannuation now, and for what reason? The original objective of superannuation was totally appropriate and was endorsed by the Murray FSI review, whose elaboration of the objectives seemed perfectly fine and defensible, so why change the objectives now? The legislated purpose of superannuation from 1992, when the *compulsory* Superannuation Guarantee came in, was very clear and straightforward. It was to provide retirement incomes through compulsory savings over a lifetime, and for fund managers (mostly not within the government sector) to seek to maximise investment returns. They have done this remarkably well over the past 30 or so years despite adverse crises here and there. This should remain the sole objective of superannuation; no more, no less.

The consultation paper talks of a 'significant opportunity (why and for whom?) to leverage greater superannuation investment in areas where there is alignment between the best financial interests of members and national economic priorities'. Where did this proposition originate from? Fairy-dust? Why make superannuation funds address national economic priorities likely to be of dubious worth or generate poor returns? This is directly in conflict with the original objective of superannuation, and almost all superannuants would certainly not want 'their' funds directed to sub-optimal causes as proposed in the consultation paper. Moreover, as an economic ministry, Treasury should beware of the proclivity of 'governments picking winners', and remember the old adage that: governments are very good at picking losers; and losers are very good at picking governments.

The consultation paper goes on without supporting arguments or evidence to suggest that superannuation should be for a 'dignified retirement', be 'equitable' and 'sustainable'.

I don't support the broader proposed objectives and consider them conflicting, contradictory and highly subjective. Any objective analyst would say the government is seeking to change the legislated objectives of superannuation precisely so that they can change the goalposts and tinker with the taxation arrangements on superannuation entitlements. We have already heard the Treasurer indicate precisely this government goal. I will address each of these proposals in order.

What is ‘dignified’ supposed to mean? Presumably it alludes to people entering retirement maintaining their standard of living, which will vary considerably by income streams, geographic location, health issues and opportunities/impediments. I am not sure that this adds anything to the original set of objectives of superannuation, to maximise returns for members. Treasury got into an enormous amount of difficulty trying to adopt a ‘wellbeing’ framework (partially lifted from New Zealand) for budgetary considerations, and was rightly criticised for embracing ideological and subjective faddish language that was of little of no help in economic or budgetary management.

The consultation paper proposes to write in ‘equitable’ as a new objective, again without any rationale or supporting arguments/evidence. Why and where does ‘equity’ come into superannuation? From the start superannuation was a function of earning capacity in different labour markets. Executives’ superannuation balances will be greater that shelf-stackers in a supermarket, and those that don’t work will have zero balances and rely on the aged pension. Equity is also highly subjective; is Treasury saying people should (normatively) have equal benefits or benefits within an arbitrarily stipulated range? Why? Treasury would not say that everyone had to live in equitable housing or have equitable real estate assets (comfortably in Red Hill properties perhaps?), so why treat superannuation as different? If the government is serious about addressing some equity issues, rather than taxing higher earners accounts at the top end, they could provide tax-free contributions up to say $500,000 for all low income earners to assist them build-up superannuation balanced.

The third proposed addition again without justification it to include ‘sustainability’. Sounds good to the average punter, but what does this mean? Sustainable for whom? The cynic in me suspects that sustainable will mean sustainable to the federal budget, not to the ordinary members in superannuation. If so, this is disingenuous and deceitful. Most full-time workers in the superannuation system working for say 40 years will achieve ample sustainability for themselves in terms of retirement income. But this is not what is meant in the discussion paper. This word is included so that this government and future governments can ‘adjust’ superannuation to suit their budgetary predicaments, not provide sustainability to people compulsorily forced to save for their retirement. It is about government viewing the $3 trillion in superannuation as a tax opportunity.

There is a huge ‘sovereign risk’ here. Working people have no choice but to pay earnings into superannuation (plus employers’ contributions). When they do they embark on a 40+ year journey of trusting governments not to touch their retirement savings. In recent years (once superannuation became more mature as a system) governments have recklessly increased sovereign risk for individuals who genuinely though their superannuation savings would be safe and protected. Not so. The Coalition governments announced arbitrarily and unilaterally (no public consultation or review) that super balances of over $1.6 million could not be drawn down tax-free. Where did this figure come from, what was the justification, nothing given! I am convinced that politicians believed that ordinary people should not earn more superannuation than they as serving politicians could after serving say three terms in parliament and so went along with it. I note in passing that the Prime Minister is in line to claim superannuation benefits of $10 million, but do not see him proposing to limit his entitlements or to vote to take 30% tax off his own balance/entitlements.

The Coalition additionally placed a limit of $25,000 on superannuation contributions per year; when for anyone on a decent salary this was an impossible ceiling to observe given that contributions were compulsory, and so many incurred additional tax obligations (above their PAYE obligations) because that had been compulsorily forced to make contributions above the $25,000 arbitrary limit. This is again sovereign risk to the individual who believed their retirement income contributions would be honoured. Governments have significantly undermined confidence in the superannuation system and proved that they can't be trusted on maintaining the rules that people operated upon in providing for their retirement income.

A further example of sovereign risk is that a few days after the consultation paper came out, the Treasurer announced that taxation on balances over $5 million would be taxed at 30%, then a day later announced it would be $3 million. Where did both these arbitrary figures come from? This was in fact a totally arbitrary decision, made on the run, widely criticised, and devoid of any defensible public policy processes of accountable decision-making. It was simply top-of-the-head stuff. Why pretend to consult the wider public on the purposes of superannuation and then change the rules immediately the consultation paper has been released?

I note that Treasury is obsessed in 'discovering' so-called tax expenditures or tax concessions, when I know that this process is notoriously arbitrary and, as some economic commentators have argued, seems to imply all income from individuals and companies is the governments and that any relief is somehow a 'concession'. A bizarre view. The family home is ridiculously regarded as a 'tax concession', even though families buy their home to live in and enjoy life. It is their property that they have bought, paid-off and maintained, not a 'tax concession'. It is also important to register that the Commonwealth has no 'stake' in the home, and unlike other OECD nations people buying a home in Australia cannot claim deductions for the mortgage interest they pay, so the federal government has not one iota of 'interest' in the family home.

In superannuation, the so-called 'tax concessions' are dreamt up because the Commonwealth taxes at a lower rate than would be the case for regular income tax on the individual. But why is this measure preferred, and not others. Superannuants are forcibly compelled to lock their 'savings' up for 30-40 years before they can access them. A lower rate of taxation for these contributions in the accumulation phase is in commercial parlance 'the costs of doing business' (or alternatively costs of doing public policy by locking away a proportion of a person's earnings). People in the current superannuation system have paid 15% on contributions, then 15% on funds investment earnings, and since 2006 not paid tax on pension entitlements up to a capped figure originally $1.6 million and now a little higher.

I believe that Treasury should now fess up that it backed the wrong superannuation model in its advice to government in the early 1990s under Paul Keating. Instead of not taxing contributions and not taxing fund returns or earnings while in the restricted phase, and then taxing at the pension benefits stage (the so-called EET model), Treasury got it entirely wrong. Treasury chose to create two immediate taxation streams (on contributions and earnings) rather than wait 30 or 40 years until retirees were drawing down their superannuation as income, which could be taxed on some appropriate progressive scale (the so-called TTE model that we have descended on by default). If Treasury now wants to move to a ETT model or even a EET model (which some economists recommend), it would presumably have to grandfather all those who have paid taxation under the TTE model (possibly for 30 or 40 years into the future) and begin new entrants on either an ETT or EET model and wait to tax them later on pension returns. This latter model is what most OCED countries with superannuation of contributed pensions have in place. It always seemed strange for Australia to adopt a dysfunctional model of superannuation that insisted on compulsorily mandating 'savings for retirement' (ranging between 9 and 12% of salaries) and then penalising those in the system for putting their savings into superannuation.

On a final note, not entirely outside the remit of the consultation paper as presented, the proposal to increase taxes on higher superannuation balances over $3 million to 30% if this goes ahead, cannot on equity grounds apply only to those in the private and industry funds market, but must also be applied in some form to those in the public services (Commonwealth and State) who enjoy very generous defined benefit pensions, and who have had nominal contributions of 17% of income accumulating in their names (but often unfunded, which is the real reason for the Future Fund). I don't think that there is any labour market shortage in people wanting to join the public service, and so exempting these people from any other tightening of benefits is patently unfair to those in the non-government sectors.

In conclusion, I cannot believe Treasury put its name to this poor consultation paper. It is the worst consultation paper Treasury has released for public comment, which might suggest that it came more probably from the Treasurer's office not the department. It is a shallow document, unclear about what the problem is and whether it is a real problem at all for superannuants, provided no evidence or rationale for its various suggestions, and massively implies a heightened sovereign risk for those compulsorily in the system. If the government moves anywhere down this path many Australians may elect to opt-out of the superannuation system and use other avenues for savings and investments not so subject to sovereign risk.

Emeritus Professor John Wanna

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