



13 July 2023

Personal and Indirect Tax and Charities Division  
Treasury  
Langton Cres  
Parkes ACT 2600  
By email: [charitiesconsultation@treasury.gov.au](mailto:charitiesconsultation@treasury.gov.au)

**RE: Response to Treasury consultation on ‘Building Community – deductible gift recipient status for community foundations’**

I am writing to express our thanks to Treasury for meeting with representatives from Community Foundations Australia, Philanthropy Australia and Herbert Smith Freehills on 30 June 2023. We appreciate Treasury making time at such short notice to provide clarity on the detail within the *Treasury Laws Amendment (Measures for Consultation) Bill 2023*.

From this conversation, we understand that the proposed model presents a more streamlined approach for community foundations to access DGR 1 status. In particular, we note with thanks Treasury’s removal of the 5-year time limit and the provision that community foundations would be able to receive funds from PAFs.

Following further consultation with Herbert Smith Freehills, we would like to reiterate three issues that remain of concern to Community Foundations Australia and the network of community foundations that we represent.

We respectfully request that the draft Bill include greater clarity on the following:

- 1. That community foundations should be able to operate community charity funds within an existing charitable trust (so they don’t need to establish a new trust for these purposes).**

With access to DGR 1 status, community foundations are seeking to simplify their structures and reduce the red tape, compliance and administrative costs and burdens. We urge the government to provide a streamlined approach that doesn’t require community foundations to establish a new trust or company to access DGR 1 status.

As community foundations will not be able to convert their public ancillary funds to be a community charity fund (CCF) nor distribute the funds to the corporate trustee (due to the wording in the PuAF trust deeds and PuAF Guidelines), most community foundations will want to be able to distribute the funds in their public ancillary funds to a CCF in an existing charitable trust and remove one of the entities in their existing often complicated structures. About half of Australia’s community foundations already have an existing charitable trust.

The current wording of the proposed Bill does not allow the CCF to sit within a trust with broader charitable purposes. We strongly request this is possible in the same way the proposed Bill allows a CCF to sit within a corporate entity. This will reduce the complexity by not requiring new trusts to be established.

## **2. That community foundations can engage in grant making to non-DGRs for DGR purposes**

As it stands, the proposed Bill does not seem to allow community foundations to make distributions to non-DGRs for DGR purposes or activities that fall within the 52 categories, or to carry out their own charitable activities. This is an essential part of the application to the government to facilitate the role of community philanthropy, particularly relevant in rural and regional areas, but applicable everywhere. We ask that Treasury amend the proposed Bill and explanatory materials to make this clearer.

## **3. The way in which principal purpose of a DGR category will be interpreted when there are other requirements for the DGR category.**

Community foundations are often the first organisation on the ground when a disaster occurs. We would appreciate further clarification about the way in which principal purpose of a DGR category will be interpreted when there are other requirements for the DGR category. In this example, would community foundations still need to wait for a disaster to be declared to receive tax deductible donations for disaster relief purposes? Another example are scholarships which community foundations often get approached to fund. Would any scholarship be able to be funded from tax deductible donations as the principal purpose or only those which still meet the DGR scholarship fund requirements?

We appreciate Treasury's commitment to providing access to DGR 1 for community foundations and believe these additional amendments to the draft Bill will enable Australia's community foundations to deepen community impact and contribute to the government's goal to double giving by 2030.

Please do not hesitate to contact us, should you require further information.

Yours sincerely,



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