

14 July 2023

Treasury

Personal and Indirect Tax and Charities Division
Langton Crescent
Parkes ACF 2600

**RESPONSE TO TREASURY CONSULTATION ON 'BUILDING COMMUNITY –
DEDUCTIBLE GIFT RECIPIENT STATUS FOR COMMUNITY FOUNDATIONS'**

PREPARED BY AUSTRALIAN COMMUNITIES FOUNDATION

Enquiries regarding this response can be directed to:

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Dear Treasury

Firstly, I would like to express our thanks to Treasury for the ongoing work with respect to the *Treasury Law Amendment (measures for Consultation) Bill 2023*.

We are delighted that the Bill reaffirms the Governments commitment in the 2022-23 Budget to provide deductible gift recipient (DGR) status to the 28 community foundations affiliated with Community Foundations Australia.

Following review of the exposure draft, we respectfully request that Treasury provide 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)**

Australian Communities Foundation (ACF) currently operates 4 separate legal entities:



The current wording of the proposed Bill does not allow the Community Charity Fund (CCF) to sit within an existing trust with broader charitable purposes. As such, we will not be able to convert our public ancillary fund (PuAF) to a CCF nor distribute the funds to our corporate trustee (due to Trust Deed exceptions and PuAF Guidelines). Given this, the most ideal scenario would be to distribute the funds sitting within our PuAF to a CCF which sits within our existing charitable trust structure. This would allow us to simplify our legal structure and reduce red tape, compliance and administrative costs associated with these entities.

We recommend that the legislation be amended to allow a CCF to sit within the broader charitable trust in the same way that the proposed Bill allows a CCF to sit within a corporate entity. This will reduce the complexity and relevant costs by not requiring a new trust to be established.

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

The current wording of 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 DGR endorsement categories, or to carry out their own charitable activities. This is an essential part of the application to government to facilitate the role of community philanthropy in Australia.

For example, currently 30% of the 1,000 grants that are distributed from Australian Communities Foundation each year to NFP charitable organisations (without DGR1) who are undertaking DGR purposes or activities, must be auspiced by a third party organisation with DGR1. This involves an additional administration burden and cost that is unnecessary and makes it particularly difficult to distribute funding to rural and regional areas where there are fewer DGR1's.

We respectfully request that Treasury amend the proposed Bill and explanatory materials to ensure that Community Foundations will be able to make distributions to non-DGRs for DGR purposes or activities that fall within the 52 DGR endorsement categories, or to carry out their own charitable activities.

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 the principal purpose of a DGR category will be interpreted when there are other requirements for the DGR category.

As an example, with respect to Disaster Relief Funds, would community foundations still need to wait for a disaster to be declared to receive tax deductible donations for disaster relief purposes? We request that Treasury provide further clarification on this issue.

Finally, we appreciate Treasury's commitment to providing DGR status 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.



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