



3rd August 2017

Senior Adviser
Individual and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

By Email: DGR@Treasury.gov.au

Dear Sir/Madam,

Tax Deductible Gift Recipient Reform Opportunities Discussion Paper

Please find attached the Casey Cardinia Foundation submission in response to the Australian Government's Tax Deductible Gift Recipient Reform Opportunities Discussion Paper.

The Casey Cardinia Foundation welcomes the opportunity to contribute to this consultation and would be pleased to discuss the matters raised in our submission. In this regard, please do not hesitate to contact me.

Yours Sincerely,

Therese Howell
Executive Officer, Casey Cardinia Foundation Ltd

“What have you done today to make you feel proud?”

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Casey Cardinia Foundation Submission: Tax Deductible Gift Recipient Reform Opportunities Discussion Paper

Introduction – The Casey Cardinia Foundation and Community Foundation Philanthropy

The Casey Cardinia Foundation is the Community Foundation for the City of Casey and Cardinia Shire regions. Founded in 2003 by a group of community and local government representatives to provide support to the communities with the regions. The Foundation aims to support the social, community and physical development of the community, raising funds for local community groups throughout the City of Casey and Cardinia Shire, with funds dispersed through an annual grants program.

Community Foundations are community-owned, not-for-profit, charitable organisations which exist for public benefit in a specific geographic area. Their shared purpose is to attract resources, to support and revitalise local communities and to build social capital. They make philanthropic grants, and often seek to build a perpetual financial asset for their community.

Australian community foundations are part of a thriving global sector of more than 1,800 place based foundations which collectively have:

- US\$6.3billion in financial reserves
- Granted more than US\$5billion (last fiscal year reported)
- 65% have five or less paid staff

The Casey Cardinia Foundation and many Australian community foundations generally operate a 'public ancillary fund' (an 'Item 2' deductible gift recipient) and, as such, provide grants to 'Item 1' deductible gift recipients

Collectively, Australia's 38 community foundations:

- hold more than \$310 million in funds under management
- grant at least \$21 million annually within their communities
- support hundreds of charitable grass roots projects and initiatives through their granting and community strengthening programs



EXECUTIVE SUMMARY AND KEY CONCERNS

The Casey Cardinia Foundation acknowledges that the Tax-Deductible Gift Recipient Reform Opportunities Discussion Paper is reflective of the Government's commitment to addressing inequities and anomalies within the current DGR framework and we welcome this opportunity to provide our input into the consultation process.

A cohesive, equitable and transparent framework is vital to supporting the vibrant and growing culture of community philanthropy in Australia. However, the Deductible Gift Recipient (DGR) framework as it now stands is complex, onerous and mired in red tape. This creates unnecessary barriers to giving and, more importantly, limits the ability of community foundations and other philanthropic bodies to effectively distribute or make grants so that they have the greatest impact in Australian communities.

Whilst it includes several welcome recommendations, the Discussion Paper also includes proposals which are of concern. Moreover, the Discussion Paper fails to address significant issues that exist within the current DGR framework which have a negative impact on community foundations.

The Foundation recognises that the Government provides a substantial financial contribution to NFP entities through tax concessions. However, this assertion, whilst true, omits the corollary; that this contribution is offset by the resultant community, social and economic benefits and gains by government in relief of activities otherwise requiring government funding.

The Casey Cardinia Foundation is a significant funder of grass roots organisations doing great work, thus supports any reforms that reduce or remove existing impediments and unnecessary red-tape, address significant gaps in the current framework and abide by the guiding principles identified by the Not-For-Profit Sector Tax Concession Working Group (2013) in particular to:

- Maximise the social good
- Recognise giving in Australia
- Be effective, efficient and fair

With the above in mind, in addition to our responses to the identified issues and specific consultation questions, the Casey Cardinia Foundation has the following over-arching comments with respect to the proposals raised in the Discussion Paper:

KEY CONCERNS

The Discussion Paper does not Address Key Issues for Community Foundations

There is growing acceptance that the complex and difficult problems facing communities around Australia can only be addressed with an integrated, multi-faceted place-based response.

As a valuable and unique form of community infrastructure, community foundations empower communities to address local challenges themselves. They seek to build social capital, catalyse development and strengthen community; they engage with their constituents as donors, advisors and volunteers. Community foundations are responsive to the challenges facing their communities and leverage their deep local knowledge to respond to need through their purposeful grant-making.

And yet, community foundations - which harness local resources, strengthen community and build local capacity - are fettered by a regulatory framework that creates significant barriers. The existing tax laws are inhibiting the growth and impact of community foundations.

Community foundations generally operate a 'public ancillary fund' (an 'Item 2' deductible gift recipient) – which imposes significant restrictions on their operations:

- Community foundations cannot accept donations from one of the most common forms of private foundation, 'private ancillary funds', as private ancillary funds are also an 'Item 2' deductible gift recipient – this cuts them off from a significant source of philanthropic funding and precludes Private Ancillary Funds from leveraging the expertise and community knowledge of community foundations.

Case Study 1 – Casey Cardinia Foundation (Casey Cardinia Region, Victoria)

A Melbourne based private ancillary fund, wished to support the Ripe for Change – local food initiatives grant program in the Casey Cardinia region. They were interested in contributing to the Casey Cardinia Foundation, which in turn would distribute the funds towards local food initiatives in the area more effectively by using its knowledge and understanding of community needs. As a private ancillary fund they were unable to distribute to the Casey Cardinia Foundation.

Case Study 2 – Casey Cardinia Foundation (Casey Cardinia Region, Victoria)

The Casey Cardinia Foundation wished to establish online donation ability through a reputable Online Donation Platform during the scoping of potential providers, a number of not for profit platforms could not be used as the platform provider held a DGR 2 status. Therefore excluding the Casey Cardinia Foundation from the use of their services.

Furthermore, *'Collective Giving and its role in Australian philanthropy'* (Boyd, Partridge July 2017), a report commissioned by the Prime Minister's Community Business Partnership, identifies the inability for Private Ancillary Funds to give to community foundations (Public Ancillary Funds) as a barrier to the growth of Collective Giving groups in Australia. Giving Groups are often hosted or embedded within organisations like community foundations. The report notes:

'If PAFs could give to community foundations, this would open a whole new source of funding for collective giving groups – there are over 1,400 PAFs in Australia, and they gave over \$300 million in 2013-14. These funds could be used for a variety of purposes, such as:

- *providing funding to support start-ups and potentially accelerate the rate new collective giving groups are forming*
- *providing capacity building grants to build ongoing sustainability, and*
- *increasing the level of donations made to collective giving groups, for example through 'matching initiatives' where a PAF agrees to donate a certain amount to a giving circle provided it is 'matched' by smaller donors.*

Whilst Giving Groups are relatively new to Australia, this form of philanthropy has seen significant growth in the USA and the UK and Ireland. Giving groups, like community foundations, differ from traditional philanthropy, offering accessible democratised giving which actively engages with donors and frequently acts as an introduction or pathway to philanthropy.

Whilst most giving groups in Australia are located in major cities there is considerable potential for them to be established in regional and remote communities as has been the case in the USA. By failing to address the barriers that exist within the current DGR framework, the government risks missing an opportunity to encourage the development of Collective Giving in Australia, supported by the deep local knowledge of community foundations, most which are in regional and rural areas.

- As an 'Item 2' DGR community foundations are limited to funding DGR 1 charities from their Public Ancillary Funds. This creates an obstacle for locally responsive organisations with relevant experience, particularly in rural and regional areas where there are fewer local DGR1s, undermining community resilience and creating unnecessary dependency on external organisations and government.

Case Study – Casey Cardinia Foundation (Casey Cardinia Region, Victoria)

To support a range of grants through the Ripe for Change program, supporting grass root organisations with local food initiatives, the Casey Cardinia Foundation had to undertake a lengthy process through a range of auspice intermediary organisations to distribute funds, using up valuable time and money in the process.

A new deductible gift recipient category within Division 30 of the *Income Tax Assessment Act 1997* (Cth) specifically for community foundations is needed to remove these barriers, reduce red tape and enable community foundations to focus on generating impact in their communities. We expect that the revenue forgone from the change would be minimal. This would be an affordable reform, which will grow community philanthropy and strengthen community resilience in Australia.

Distinction between Charitable Purpose and Activities

There is concern that The Discussion Paper does not clearly differentiate ‘charitable purpose’ from ‘activities of charities’. Charitable purposes are clearly defined in the Charities Act 2013 (Cth) (section 12(1)) and whilst connected to, are not interchangeable with a charity’s activities. Charities with different purposes may employ similar activities or charities with the same purpose may employ very different activities. Essentially, a charity’s purpose is its ‘horse’, its activities are its ‘cart’. It is our view that DGR reform should focus on purposes. To do otherwise creates unnecessary level of scrutiny and consequent red-tape, casts doubt and uncertainty over what activities a DGR entity can lawfully undertake and, effectively, risks putting the cart before the horse.

Charities and Advocacy

Australian charities may legitimately undertake advocacy to address the root causes of social and environmental problems that relate to their charitable purpose. Any charity engaging in advocacy does so within a prescribed legal framework and has access to guidance from the ACNC to ensure it does so appropriately.

The Discussion Paper asserts that ‘some charities and DGRs undertake advocacy activity that may be out of step with the expectations of the broader community’. Given that there is no objective measure to determine broad community expectations with respect to advocacy, it is inappropriate to use this as a rationale for the reforms proposed within the Paper. Community Foundations view that the requirement that all DGRs become registered charities under the purview of the ACNC is sufficient. Any additional requirements, particularly when these single out the specific environmental organisation cohort, are unnecessary and not in keeping with the aforementioned guiding principles.

Compliance

The Casey Cardinia Foundation is supportive of the intention to reduce ‘red-tape’ within the reporting framework and supports further integration of the ACNC into the regulatory framework for DGR.

Transparency and accountability of DGRs is vital. However, we do not believe there is a case for rolling reviews or audits. Both the ACNC and the ATO have sufficient jurisdiction to undertake reviews and audits where they believe this is warranted, and it is not apparent that introducing new and costly formal review processes will result in any perceived or actual benefits.

Closing Remarks

Community foundations make it easy for people to contribute to a pool of funds which is used to support charitable projects through purposeful grantmaking. They work in partnership with donors, local organisations and community leaders to strengthen communities and increase opportunities and they are uniquely placed to understand and respond to the immediate and long term needs of the community.

Community foundations play a vital role in directing philanthropic funds to communities, particularly rural, regional and remote communities where there are few local DGRs. The only way in which community foundations can support grassroots non DGR charities is through a partnership with the Foundation for Rural and Regional Renewal (FRRR), adding to their already onerous administrative burdens. It is worth noting that around 80% of the organisations supported by FRRR have not held any DGR status, serving to demonstrate a vast needs-gap and failure of the current regulatory framework.

Australian community foundations, unlike their international counterparts, are hampered by an unnecessarily complex regulatory framework that places significant barriers in their way, has impeded their capacity to collaborate effectively with private philanthropy and has limited the growth and impact of this globally proven model in Australia.

The Casey Cardinia Foundation asks the government to give urgent consideration to the recommendation contained in this submission and to the submission by Australian Community Philanthropy, to create a new deductible gift recipient category within Division 30 of the *Income Tax Assessment Act 1997* (Cth) specifically for community foundations.