

3 August 2017

Senior Adviser  
Individuals and Indirect Tax Division  
The Treasury  
Langton Crescent  
Parkes ACT 2600

Dear Sir/Madam,

**RE: Tax Deductible Gift Recipient Reform Opportunities Discussion Paper**

Please find attached Australian Communities Foundation (ACF)'s submission in response to the Australian Government's Tax Deductible Recipient Reform Opportunities Discussion Paper.

ACF provides a legal and structure for the 280 sub-funds established by generous individuals, families, groups of like minded people, NFP organisations and companies which are all committed to giving back to the communities and issues they care about.

The Foundation and our donors have a strong interest in this review as the outcomes will impact upon the charitable organisations which they support and on the partnerships we can form to achieve the most effective and far-reaching outcomes.

ACF recognises that the Discussion Paper and consultation are reflective of the Government's commitment to addressing inequities and anomalies within the current DGR framework and welcomes the opportunity to provide input into the process.

Yours sincerely,



**Maree Sidey**  
**Chief Executive Officer**

## SUBMISSION

### TAX DEDUCTIBLE GIFT RECIPIENT REFORM OPPORTUNITIES DISCUSSION PAPER

#### **1. Introduction – About Australian Communities Foundation (ACF)**

Australian Communities Foundation (ACF) is a public, independent, not-for-profit charitable foundation. It was established in 1997, initially as the Melbourne Community Foundation, before going national in 2010, in recognition of our growing Australia-wide donor base and the distribution of our grants across the country.

Our mission is to generate and distribute philanthropic resources in partnership with donors and others in response to social issues and community needs. The trustee is Australian Communities Foundation Ltd, a company limited by guarantee and a Tax Concession Charity (TCC).

There are three charitable Funds under the Trustee, designed to provide maximum flexibility for both donations and distribution. Two of these are DGR public funds and the third is a charitable trust. Grants from the DGR funds must be made to DGR 1 organisations.

ACF offers individuals, families, groups, companies and not-for-profit organisations a simple and cost-effective way of providing philanthropic resources in a structured, long-term manner. All donations are pooled and invested and the income is used to address disadvantage and build community capacity.

The Foundation uses its significant community and grantmaking expertise to assist donors plan their philanthropic giving and make effective grants which meet their own charitable objectives and address needs in the community. Donors can establish named sub-funds or management accounts and in 2017 ACF has over 270 sub-funds, with a total corpus of \$70 million. Over 90% of the sub-funds and the corpus sit in the two DGR public sub-funds.

In 2015/16 a total of \$7.6 million was distributed in 579 grants to a wide range of policy areas, including: education, training and employment; health and medical research; arts and culture; community services and support; environment and conservation; social justice, human rights and inequality; and overseas aid and development.

More than fifty of our donors specify the environment as their, or one of their, key areas of interest and last year 10% of the total amount distributed was for environmental purposes. These grants were all made to organisations with DGR 1 status, the majority through the Register of Environmental Organisations. Grants were for a range of activities including on-ground activity and the equipment required to do this, operational support, including organisational capacity building and professional development, public education and community development, research and policy development, and public policy reform advocacy designed to achieve better protection and enhancement of the environment.

## **2. Summary and Key Concerns**

ACF endorses the views expressed in the submissions made by our two peak bodies – Philanthropy Australia and Australian Community Philanthropy. The issues raised below are those that most directly affect our ability to fulfil our mission which is to inspire and enable accessible philanthropy to achieve positive social change and build healthy resilient communities.

### Division 30 of the *Income Tax Assessment Act 1997*

We recognise that the taxation system is a critical instrument for supporting a vibrant and growing culture of giving in Australia. To be truly effective in this way it is vital that the taxation system is based around principles of simplicity, clarity, certainty and the inclusion of incentives to encourage philanthropy. The Deductible Gift Recipient (DGR) framework set out in Division 30 of the *Income Tax Assessment Act 1997* is a key component of this system, as access to philanthropic dollars is determined largely by having DGR status.

Division 30 has evolved over time in an ad hoc manner, resulting in a DGR framework which is complex, cumbersome and mired in red tape. It is difficult, expensive and incredibly time consuming for charitable organisations to apply for and achieve DGR status. It also creates unnecessary barriers to giving for private and public ancillary funds, such as community foundations, which can only give to DGR 1 organisations. Many locally based community organisations doing extremely effective work in their communities, but which have not been successful in gaining DGR status, are not able to apply for or receive grants from Private or Public Ancillary funds.

### DGR 1 Status for Community Foundations

An additional concern for community foundations is that, as an Item 2 DGR entity, it cannot receive donations from other Item 2 DGRs, such as Private Ancillary Funds (PAFs). Community foundations build up great community knowledge and grantmaking expertise and take on roles as leaders, convenors, and connectors within their communities. In this capacity, community foundations often develop grant programs to support important charitable work in a variety of areas. PAFs, which often don't have paid staff or research capacity, would like to piggy back on this expertise by providing funds which can then be allocated through the grant program, confident that there will be a rigorous, evidence based assessment process for the distribution and acquittal of funds.

A current example of this is ACF's Homework Club Partnership Fund, which is run in conjunction with the Centre for Multicultural Youth. Through the Homework Club funding program grants are made to homework clubs which are supporting highly disadvantaged and disengaged young people in urban growth corridors of Melbourne and in rural and regional Victoria. A number of PAFs would like to collaborate with ACF by making an annual grant into our Homework Club Partnership Fund, which would then be pooled with our funds and allocated to successful applicants. As they are unable to do this, we are forced to administer a far more complex, unwieldy and time consuming process whereby several different foundations each separately provide grants to the same homework club.

ACF endorses the recommendation being made by both of our peak bodies regarding the creation of a new deductible gift recipient category within Division 30 of the *Income Tax Assessment Act 1997* (Cth) specifically for community foundations. This would remove these barriers, reduce red tape and enable community foundations to focus on generating impact in their communities. This change is not likely to have any great impact on tax revenue and would be an affordable reform, which will grow community philanthropy and strengthen community resilience in Australia.

### Charities and Advocacy

ACF is extremely concerned by the assertion that ‘some charities and DGRs undertake advocacy activity that may be out of step with the expectations of the broader community’. Advocacy is just one of a range of legitimate activities undertaken by DGRs to achieve their charitable purposes. Any charity that undertakes advocacy does so within a prescribed legal framework and has access to guidance from the ACNC to ensure it does so appropriately.

In 2010, the High Court of Australia’s decision on the Aid/Watch case made it very clear that advocacy was an important and legal way for charities to meet their charitable purpose and is a fundamental part of Australia’s constitutional system. ACF and its donors believe it is vitally important that they can continue to support those organisations whose purpose is to participate in public debate about good public policy designed to achieve greater social, economic, and environmental justice. This work is often informed by the on-ground activity and individual casework services provided by these organisations.

ACF’s interactions with a broad range of diverse donors and other stakeholders would not indicate that advocacy activity is in any way out of step with community expectations. It is possibly truer to say that it often conflicts with mining interests and some politicians’ ideological frameworks, and that it is this group that is applying great pressure to limit the amount of advocacy environmental organisations can undertake and for charitable organisations to report specifically on their advocacy activity.

### **3. Specific Consultation questions**

ACF endorses the responses provided by Philanthropy Australia and Australian Communities Philanthropy to the specific questions listed in the Discussion Paper.

In particular, for the reasons outlined above we strongly oppose the proposals to require additional information from charitable organisations about their advocacy activities and to require environmental organisations to commit no less than 25% or up to 50% of their annual expenditure from their public fund on environmental remediation. We would stress again that the Government should focus on the charitable purposes of registered charities and not on the specific activities. Charities can and should employ a range of activities to achieve their purposes, and the extent to which these activities contribute to their purposes is the only standard by which they should be judged.

In general, ACF supports the proposals which minimise the complexity of the DGR framework and result in a reduction in red tape. Specifically, the introduction of rolling reviews, audits, sunset clauses and sanctions are unnecessary if all DGRs are required to be registered with the ACNC and therefore subject to their regulatory framework, including annual reporting requirements.