



## **Tax Deductible Gift Recipient Reform Opportunities**

### **Response to Discussion Paper**

#### **Overview**

This response provides some additional insights about the questions raised in the Discussion Paper, drawing on the Lord Mayor's Charitable Foundation's experience, both as a charitable foundation itself and as a funder of charities and provider of philanthropic services. The Foundation is a member of Philanthropy Australia, Australian Community Philanthropy (the peak body for community foundations in Australia) and the Australian Environmental Grantmakers Network. We will note or expand on points where our particular perspective might differ or provide additional insights.

#### **Background to the Lord Mayor's Charitable Foundation**

Lord Mayor's Charitable Foundation (the Foundation) makes grants of nearly \$10 million per annum to charities working in areas including homelessness and affordable housing; education and employment; healthy and resilient communities, and environment and sustainability. The Foundation is Australia's largest and oldest community Foundation. For over 94 years the Foundation has made a real and lasting impact on the urgent social and environmental challenges facing Melbourne, with tens of millions of dollars granted to charities of all sizes. As a recognised leader in proactive and responsive grantmaking and social impact investing, the Foundation actively monitors funded projects and researches current and emerging community issues to inform and prioritise our grant making and community initiatives. The Foundation has made grants to hundreds of charities and undertakes due diligence and a grant impact assessment on all grant applications.

Funds received from generous bequests and public donations over many years enable us to build the capacity of registered charities, and support charities to undertake innovative research and projects to tackle current social and environmental issues. We aim to support positive social change. Our current priorities are affordable housing and homelessness, unemployment (youth and older people); social cohesion and community resilience, and sustainability (food security, healthy waterways and the transition to a low carbon future). We make grants to charities, undertake community initiatives, work in collaborations to support policy and research, raise funds for different projects, and provide community education opportunities to help grow philanthropy.

The Foundation is a registered Australian charity and is trustee of a public ancillary fund (Lord Mayor's Charitable Fund), which includes charitable accounts, and a charitable trust, the Eldon and Anne Foote Trust. The Foundation may also be the trustee of other charitable trusts and funds. Our Board comprises professional and experienced people with knowledge of finance, investment, law, health, community services and marketing. The Board is supported by several Board Committees and four Grants Advisory Panels, including impact area experts. Our staff team include experts in charity compliance and management, philanthropy, grants management (including knowledge of our impact areas), donor services, law, communications, data analytics and accounting. The Foundation has a rolling three-year internal audit program. Our internal auditor is Oakton and our external auditor is Deloitte.

The Foundation is keen to ensure that any DGR reform:

- encourages philanthropy and helps grow a culture of giving in Australia based on the community foundation view that 'everyone can be a philanthropist';

- is proportionate, measured and takes into account the huge social and economic benefits provided by charities to the Australian community and economy;
- enables community foundations to have the greatest impact possible in their local communities (both metropolitan and regional) across Australia; and
- does not confuse charitable *purposes* with charitable *activities*.

## Response to Consultation Questions

### Strengthening Governance Arrangements

#### **1: What are stakeholders' views on a requirement for a DGR (other than a government entity DGR) to be a registered charity in order for it to be eligible for DGR status. What issues could arise?**

The Foundation supports the proposal to require a DGR (other than a government entity DGR) to also be registered as an Australian charity with the Australian Charities and Not for profit Commission. We note that Philanthropy Australia also supports this proposal.

#### **2. Are there likely to be DGRs (other than government entity DGRs) that could not meet this requirement and, if so, why not?**

The Foundation is not aware of any DGRs (other than government entity DGRs) that could not meet this requirement. The Foundation makes grants to charitable organisations, including charitable organisations with DGR status through the Lord Mayor's Charitable Fund, which is a Public Ancillary Fund. The Foundation carries out due diligence in relation to charitable status as part of its granting considerations

#### **3. Are there particular privacy concerns associated with this proposal for private ancillary funds and DGRs for broadly?**

The Foundation operates as a community foundation and is committed to public reporting. As a community foundation, we do not have concerns about this proposal. (We make some additional observations about community foundations and DGR status at the end of this submission.)

#### **4. Should the ACNC require additional information from all charities about their advocacy activities?**

The Foundation shares the view of Philanthropy Australia, Australian Community Philanthropy and the Australian Environmental Grantmakers Network and does not support this suggestion. We note the ACNC Guidelines on Charities, Elections and Advocacy (April 2016) and consider this to be a useful and clear guide on advocacy by charities.

Charities use a variety of tools to work for public benefit to achieve their particular charitable purpose. We have many examples where research and policy work have led to positive impacts on social or environmental issues. Two recent examples are:

1. Our support for and involvement in the Transforming Housing Partnership at the University of Melbourne. This partnership brings together academics in urban planning and architecture with local government practitioners, private architects, developers and investors to consider ways to increase the supply of affordable housing in Melbourne. We are an active member of the Transforming Housing Partnership and have found that the research and policy work undertaken by the Partnership has informed our grantmaking in affordable housing and homelessness over the last few years. It has enabled us to make well

informed grants to a wide range of projects, such as the redevelopment of Ozanam House by Vincent Care, HomeGround Real Estate Agency (a social enterprise of Launch Housing), Justice Connect's Homeless Law Service and Council for Homeless Persons Homeless Service Coordination project, amongst many others. The Partnership contributed to the Victorian Government's consultation on Plan Melbourne Refresh 2017 and has held several summits to discuss policy issues associated with increasing the supply of affordable housing. The Victorian Government has since made a tentative commitment to trial inclusionary zoning on government land, which was one of the policy reforms recommended.

2. The FoodPrint Melbourne project, undertaken by the Victorian Eco Innovation Lab at the Melbourne School of Design (University of Melbourne), was first funded by the Foundation as an Innovation grant. FoodPrint Melbourne mapped Melbourne's food bowl and provided new information to assist the long term planning of a sustainable food system for Melbourne in the context of our growing population and changing climate. This was new research which is helping inform policy and the community. The FoodPrint Melbourne team is now working with the Geography Teachers Association of Victoria to build resources based on the research for use in the Year 9 Geography unit of the Australian curriculum 'Biomes and Food Security'.

**5. Is the Annual Information Statement the appropriate vehicle for collecting this information?**

We agree with the response of Philanthropy Australia. No further reporting is necessary.

**6. What is the best way to collect the information without imposing significant additional reporting burden?**

We agree with the response of Philanthropy Australia. Current reporting via the Annual Information Statement is sufficient.

## **Reducing Complexity**

**7. What are stakeholders' views on the proposal to transfer the administration of the four DGR Registers to the ATO? Are there any specific issues that need consideration?**

The Foundation does not have a position on the administrative location of the DGR Registers although the ACNC should be considered. The Foundation is of the view that, wherever the Registers sit in terms of efficient management, there will need to be Departmental officers with expert knowledge of each sector so that the assessment of applications and the monitoring of compliance is well informed. This will have resource implications.

**8. What are stakeholders' views on the proposal to remove the public fund requirements for charitable and allow organisations to be endorsed in multiple DGR categories?**

The Foundation supports the removal of the public fund requirements for charities for those charities whose purposes fully align with the public fund purpose. We note that for public funds for particular charitable purposes that are narrower than the operating charity e.g. school building funds or scholarship funds, it would be necessary to maintain a gift fund and meet relevant rules to maintain integrity and avoid the mixing of funds for specific purposes with other charitable funds.

We support the ability of charitable organisations to be endorsed in multiple DGR categories. Many of the social and environmental issues which charitable organisations are responding to are

multifaceted and interdependent. For example, we know from our own work in homelessness that there are many causes of homelessness (including escaping family violence, mental health issues, drug and alcohol issues, an inadequate supply of affordable housing and unemployment) and that stable housing is essential for finding and holding a job, and for staying in school or tertiary education. For example, there could be instances where a PBI could also be registered as a Health Promotion Charity or Harm Prevention Charity.

## **Integrity**

### **9. What are stakeholders' views on the introduction of formal rolling review program and the proposals to require DGR to make annual certifications?**

The Foundation supports the transparency and accountability of DGRs and notes that there are already requirements to report to the ACNC and, in the case of many philanthropic foundations with ancillary funds, to Treasury under the Ancillary Fund Guidelines. As a grantmaker, we do not believe that a formal rolling review program will increase the effectiveness of charities. There are already mechanisms for the ACNC or the ATO to undertake compliance reviews and this is sufficient. This accords with the view of Philanthropy Australia.

A rolling review would involve a duplication of existing reporting and regulatory processes, and create further red-tape for charities. Some philanthropic grants are made for projects that are tackling long term social issues. For example, the Foundation has funded the Salvation Army and Sacred Heart Mission in the past for a project relating to homelessness over seven years. Philanthropic foundations are able to take a long term view when supporting charities. The introduction of rolling reviews would lead to unnecessary uncertainty.

We note that many important projects take time to make a real impact. Five years is a very short time horizon in the context of positive social change. In our experience, it may be necessary to support an organisation over many years for it to achieve sustainability and/or make the full impact possible. As another example, we note the support we have given a number of social enterprises over many years. We have funded YouthWorx, a social enterprise of Youth Development Australia since 2009 at various stages of development. YouthWorx is providing training and employment within the film industry to young people facing a range of disadvantages.

### **10. What are stakeholders' views on who should be reviewed in the first instance?**

The Foundation does not support rolling reviews. Current reporting and review mechanisms are sufficient.

### **11. What are stakeholders' views on the idea of having a sunset rule of five years for specifically listed DGRs?**

The Foundation does not support the introduction of a sunset rule for specifically listed DGRs. Charitable organisations that are specifically listed as DGRs are listed because they are operating in an area of significant public benefit which is not otherwise covered by existing DGR categories. While they are operating within their charitable purposes, they should be able to operate with the same stability as other DGRs. We note as an example, the Foundation for Rural and Regional Renewal, which continues to be as relevant now, tackling rural and regional disadvantage, as it was when it was established in 2000. The Foundation has quite recently funded an employment social enterprise through FRRR.

The Foundation opposes the idea of having a general sunset rule, which would again create uncertainty for donors and philanthropic grantmakers who often fund projects in instalments (over a period of successive years).

**12. Stakeholders' views are sought on requiring environmental organisations to commit no less than 25% of their annual expenditure from the public fund to environmental remediation, and whether a higher limit, such as 50 per cent, should be considered?**

The Foundation is opposed to new restrictions and limitations which would require a certain proportion of an environmental organisation's activities to be applied toward environmental remediation. We note that Philanthropy Australia and the Australian Environmental Grantmakers Network do not support this suggestion.

The Foundation has supported a number of community organisations and research institutes/universities working on our priority areas within the Environment and Sustainability program: food security, healthy waterways and transitioning to a low carbon future. There is very important work to be done on research, policy, education and innovation in addressing environmental issues. On ground remediation is an important response but it is only one aspect of protection of the environment.

We note that subdivision 30.265 of the Income Tax Assessment Act 1997 provides that the principal purpose of an entity entered on to the Register of Environmental Organisations must be:

*'(a) the protection and enhancement of the natural environment or of a significant aspect of the natural environment; or (b) the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.'*

We provide two recent examples of organisations that have been supported by the Foundation, which are having a very positive impact on the natural environment outside remediation projects:

1. The Alternative Technology Association (ATA) has been at the forefront of providing practical information to individuals and communities about energy efficiency and renewable energy. The Foundation has funded the ATA several times to ensure information is available to the public. This included the development of the Sunulator, an online tool to assist the community assess solar energy solutions for their homes. We are currently working with the ATA on a pilot study aimed at increasing the energy efficiency of charitable organisations, leading to a double benefit of reducing costs and reducing greenhouse gas emissions. The ATA has undertaken nine audits of sites owned by six charitable organisations as part of a pilot project. Using this information the charities will be able to achieve both cost savings and emissions reductions.

2. Recently the Yarra River Protection Bill 2017 was introduced into the Victorian Parliament. The proposed law is a landmark because it recognises the Yarra River and its environs as a single, integrated living entity, to be managed as a single landscape under a 50-year community vision. This in itself is historic in Australian urban river management. The Foundation made a grant to Environmental Justice Australia working with the Yarra Riverkeeper Association to enable small grassroots community and environmental groups and local residents along the river to be part of developing the new policy, which underpins the proposed legislation. These groups included 'friends' groups, landcare groups, special interest groups (e.g. Native Fish Australia, the Platypus Conservancy, Rowing Victoria), and environmental NGOs (e.g. Environment Victoria). The project included workshops and discussions around issues relating to biodiversity and environment, land

and catchment management (e.g. invasive species, stormwater), development pressures, and water quantity/flow management.

**13: Stakeholders views are sought on the need for sanctions.**

The Foundation supports the view of Philanthropy Australia. We do not support the need for sanctions. There are already review and compliance mechanisms in place.

**Community Foundations and DGR**

The Foundation wishes to add one additional element to its response to the DGR Reform Opportunities.

As Australia's largest and oldest community foundation, we note the previous submissions of Australian Community Philanthropy and Philanthropy Australia in relation to the need for a DGR Register for community foundations. There are opportunities to increase effectiveness of this form of philanthropic foundation through this mechanism.

Community foundations are a valuable and unique form of community infrastructure. They empower communities to address local challenges themselves. They seek to build social and financial capital, catalyse community development and help communities tackle local issues, such as homelessness, unemployment and social inclusion. Community foundations leverage their deep local knowledge to respond to need through their purposeful grant-making and through bringing people together, commissioning research and community education. The existing tax laws are inhibiting the growth and impact of community foundations. Additional information can be provided if required.

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