

The Governor-General's Australian Future Leaders Program
The Australian Future Leaders Foundation
ABN 28 649 403 654

27th April 2021

The Hon J Frydenberg MP
Federal Treasurer
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Email: dgr@treasury.gov.au

Dear Treasurer,

Request for assistance to attain specific listing for The Australian Future Leaders Foundation (ABN 28 649 403 654) (Foundation)

I am writing to ask for your assistance in establishing the Foundation as a Deductible Gift Recipient (DGR) in the *Income Tax Assessment Act 1997* (Cth).

As you may know, the Foundation was established in April 2021 as a public company limited by guarantee with the core purpose of building the skills, experience and capability of Australia's future leaders through The Governor-General's Australian Future Leaders Program (**Program**). The Program is an innovative Australian leadership program that aims to build a cadre of Australian leaders across all sectors who are better connected, more collaborative and better equipped to make an impact for our nation. These individuals jointly share a commitment to Australia, our values and our future. The Program builds upon 60,000 years of Indigenous leadership to develop cutting edge innovation and collaboration that delivers in an Australian context for Australia. It also complements the Government's Economic Recovery Plan to catalyse societal cohesion and fairness with a focus on the national interest, issues and opportunities.

Whilst the Foundation is in the process of registering with the Australian Charities and Not-for-profits Commission as a charity with the purpose of advancing education, it does not fit neatly within a pre-existing DGR category. This limits the funding it can receive and the positive effect it can have in the medium and long term. Specific listing as a DGR will open additional revenue streams for the Foundation in the form of deductible gifts and the receipt of grants from foundations and philanthropists, such as private ancillary funds operated by high wealth philanthropic individuals and families who, as a result of law or internal policy, can currently only give to DGRs.

I understand the Foundation and the Program have been discussed at some length by His Excellency The Governor-General and the Prime Minister, and I have kept the Prime Minister & Cabinet Office well briefed on the progress. We have a corporate, NFP, Labour, public service and philanthropic groundswell of support and 12 of Australia's leading Vice-Chancellors have signed up to champion the Program in each State and Territory. We also have a raft of Australian's most prominent thinkers, advisors and leadership practitioners engaged in the initiative.

We would greatly appreciate an expedited DGR listing to catalyse the private funding we will raise to support this initiative, which will complement the core Government financial support that we anticipate. By specifically listing the Foundation, the Government will be supporting the advancement of education and the future leaders of Australia.

Our full submissions and rationale regarding the specific listing is enclosed as an Annex to this letter. To help expedite the process, we also attach:

- the Foundation's constitution; and

- a set of public fund rules, which we understand are required by the Australian Taxation Office for specifically listed entities.

Please do not hesitate to contact me if you need further information about the Foundation or this request or to verify any of the above with the Official Secretary.

I have taken the liberty of asking Prime Minister & Cabinet Office to draw this to your attention directly.

Yours sincerely,

s 47F



Chris Hartley
Executive Director

s 47F



Annex

1 Establishment and Structure of the Foundation

The Australian Future Leaders Foundation Limited (ABN 28 649 403 654) (**Foundation**) was established as a public company limited by guarantee in April 2021. It is currently in the process of registering with the Australian Charities and Not-for-profits Commission (**ACNC**), as a charity under the subtype of advancing education.

No other initiative can speak of material contribution, support and encouragement from all the top tier consulting companies ^{s 45} McKinsey, Boston Consulting Group and Accenture) or collaboration between leading search companies ^{s 45}

The governance model enshrined in the Foundation's constitution has been designed and drafted by Gilbert + Tobin. McKinsey & Co were commissioned to expand the working governance model and Accenture have added further detail in a governance review. KPMG have also been commissioned as Auditors and are involved in both the final budget review (which originated with McKinsey and was then further detailed by Accenture) and a final sign off on governance.

The Foundation is currently governed by an interim board of directors who will step down on or before 30 June 2021. Russell Reynolds and Egon Zehnder have been commissioned to advise on substantive appointments to the board. The working committees under the board will include representatives from the Australian Public Service, the Australian Defence Force, trade unions, for purpose organisations, Indigenous groups and the corporate sector.

2 Purpose

The purpose of the Foundation and the reason for its establishment and existence is found at rule 3.1 of its constitution, which states:

"The purpose of the company is to advance education, with a focus on building the skills, experience and capability of Australia's future leaders."

By pursuing its purpose, the Foundation aims to fill a gap that currently exists in Australia in relation to leadership programs. Research commissioned from Accenture, which analysed 106 Australian and 20 overseas leadership programs, found that whilst there are a number of notable leadership programs, few are experiential, and all are focussed on leadership in specific areas. This means that whilst it is possible to hone leadership skills in ^{s 45} there are no programs available that cover the breadth of our nation, inclusive of geography, demographic and sector.

Through the Foundation's Governor General's Australian Future Leaders Program (**Program**), participants will be able to develop broad leadership skills underpinned by academic excellence and experience. Participants will be drawn from various sectors and areas within Australia and will receive exceptional experiences, unparalleled access, a multitude of perspectives and an unrivalled network. The impact on Australia will be immense. As a result of the Program, a cadre of Australian leaders across all sectors who are better connected, more collaborative and impactful and who jointly share a determination to build a better Australia will arise.

3 Activities

The activities of the Foundation will be conducted in the furtherance of its charitable purpose and can be broadly categorised as:

- providing education and educational courses relating to leadership skills and strategies;
- promoting and encouraging education related to leadership

- engaging with Australian Governments and universities to facilitate leadership training and educational courses;
- developing educational material and content, taking from top performing leaders and leadership training from Australia and overseas; and
- establishing and fostering a vibrant alumni community.

Many of these activities will specifically relate to the Program which will be run by the Foundation to help advance its charitable purpose. In part, this is an online program that provides participants with curated leadership tools that are underpinned by world class academic excellence. Participants in the program will also have access to mentoring from outstanding leaders to help develop their skills and will undertake a series of intensive study tours, providing a deep dive into topics and opportunities of national importance in a nation-wide format. The Program is underpinned and subject to the academic rigour of a remarkable 12 Australian Universities and their Vice-Chancellors who will help ensure the success of the Program and growth, education and development of the participants.

The target cohort of the Program are people with between 12 and 15 years of experience in their workplace, community or profession and between 20 and 25 years to contribute further. Participants will be enlisted from all Australian geographies and demographics with a gender split of 49/49/2. There will be 140 participants in the first cohort and 280 participants in the second and ongoing cohorts. From bee keepers to ballet dancers and financiers to preachers these individuals will already be recognised by their peers and society as current or future leaders and the Program will assist them in honing their leadership skills and capacity.

4 Specific listing

4.1 Introduction

The Foundation does not neatly meet the endorsement requirements set down for any of the deductible gift recipient (**DGR**) categories covering whole of organisation endorsement. In addition, the categories of DGR endorsement for funds, authorities or institutions are also unsuitable for the nature of the Foundation. For example the Foundation is not:

- a 'public university'¹ or 'public fund for the establishment of a public university'² because its activities include partnerships with existing universities rather than having created or intending to create a new university;
- a 'public library'³ because it does not meet the definition and characteristics of a library; or
- an 'approved research institute'⁴ because it does not undertake scientific research which is, or may prove to be, of value to Australia.

In reviewing the available DGR categories, the one that is perhaps the most closely aligned with the purpose and activities of the Foundation is a scholarship fund⁵. However, on closer examination, this option is not suitable because a scholarship fund is established and maintained solely for providing money for eligible scholarships, bursaries or prizes and must have certain mandated characteristics. This includes that the scholarship must promote the recipient's education at approved Australian courses or via overseas study (where this is by way of study or a component of an approved Australian course). While the Foundation will be offering education, the curriculum and the courses will not be

¹ *Income Tax Assessment Act 1997* (Cth), item 2.1.1 in the table at section 30-25.

² *Income Tax Assessment Act 1997* (Cth), item 2.1.2 in the table at section 30-25.

³ *Income Tax Assessment Act 1997* (Cth), item 12.1.2 in the table at section 30-100.

⁴ *Income Tax Assessment Act 1997* (Cth), item 3.1.1 in the table at section 30-40.

⁵ *Income Tax Assessment Act 1997* (Cth), item 2.1.13 in the table at section 30-25.

officially approved or part of a primary, secondary or tertiary course as is required by the rules surrounding DGR endorsed scholarship funds.

With the above in mind, the only remaining avenue open to the Foundation is to be specifically listed in the *Income Tax Assessment Act 1997 (Cth) (ITAA97)* as a DGR. We note that the specific listing of organisations with a similar scope of activities to those of the Foundation is not unprecedented. There are several organisations that have been specifically listed that focus on one area or another analogous to the work of the Foundation. In many respects the activities of the Foundation are akin (whether in whole or part) to organisations such as the Commonwealth Study Conferences (Australia) Inc which is listed by name as a DGR and covered by Item 1 of the table in section 30-15 of the ITAA97.

4.2 Why DGR endorsement is important to the Foundation

DGR endorsement is important for the future sustainability and growth of the Foundation.

The budget for the first two cohorts, which totals 440 participants, is approximately \$45 million which includes the set up costs and all components of the Program from the State forums to the national study tours and plenary gatherings at Admiralty House and Government House. Of this \$45 million approximately 70 per cent \$31.5 million is anticipated from Government with the remaining 30 per cent \$13.5 million anticipated to be received from corporate and philanthropic sources. Corporate involvement on the Program itself is limited to 10 per cent of the cohort in order to deliver a broad based national representation. With 'payment for service', matched contributions and aggressive philanthropic targets, private sector funding significantly relies on DGR status.

As this is a long term initiative destined to make a national impact over many generations, private sector financial commitments are imperative to the success of the Program and it is crucial that the Foundation attract donors now. From a risk management perspective, there is also a prudent desire to diversify funding sources rather than remaining significantly dependent on a single donor.

Endorsement as a DGR by way of specific listing will enable the Foundation to increase its revenue through the attraction of deductible gifts and from the receipt of grants from foundations and philanthropists that can, because of law or internal policy, only give to DGRs. Due to the nature of the Foundation's purpose, it is unlikely to attract much, if any, financial support from donations from the general public. Rather, its primary target donor group is high net worth individuals and families, many of which operate private ancillary funds. For those that operate private ancillary funds, if they desire to support the Foundation they will (due to the nature of the restrictions placed on private ancillary funds) be unable to do so unless the Foundation is endorsed as a DGR. Notably, as private ancillary funds are already exempt from income tax, the foregone revenue to Treasury because of the specific listing of the Foundation is likely to be minimal.

5 Conclusion

The Foundation is not eligible to be endorsed as a DGR under any of the current DGR provisions contained in the income tax laws. Specific listing would allow the Foundation to obtain seed and growth funding other than by way of Government contributions or industry impost.

Given the Foundation's intended donors, the amount of revenue foregone by Treasury arising from granting DGR endorsement to the Foundation will be minimal and is an investment that will provide a significant benefit to the Australian public and the Australian Government into the future.

We therefore request that the Foundation be specifically listed in the ITAA97 as a DGR.

The Australian Future Leaders Foundation Ltd (ABN 28 649 403 654)

Public Fund Governing Rules

Adopted by a resolution of the directors

1 Introduction

The Australian Future Leaders Foundation Limited (ABN 28 649 403 654) (**Foundation**) is a not-for-profit public company limited by guarantee. At the time of writing the Foundation has applied for registration as a charity with the Australian Charities and Not-for-profits Commission.

The Foundation is to be specifically listed as a deductible gift recipient in the *Income Tax Assessment Act 1997* (Cth). In anticipation of the specific listing, the Foundation has established a public fund named 'Australian Future Leaders Fund (**Fund**).

This document sets out the rules for the management, administration and winding up of the Fund.

2 Purpose

The purpose of the Fund is to solicit and receive funds to advance education, with a focus on building the skills, experience and capability of Australia's future leaders (**Sole Purpose**).

3 Gifts

- (a) The public will be invited to contribute to the Fund to be used for the Sole Purpose.
- (b) The Fund will receive all gifts and contributions made directly to the Foundation, together with any income generated from the assets of the Fund, but will not receive any other money or property.
- (c) The Foundation will establish and maintain a separate bank account in the name of the Fund (**Fund Account**).
- (d) All gifts and contributions made directly to the Foundation, together with any income generated from the assets of the Fund, will be kept separate from the other funds of the Foundation and will be deposited into the Fund Account directly, or as soon as reasonably practicable after the receipt of the funds.
- (e) Receipts for gifts and contributions made directly to the Foundation will:
 - (i) be issued in the name of the Foundation;
 - (ii) state the receipt is for a gift or contribution (as applicable); and

- (iii) state the ABN of the Foundation.
 - (f) All amounts shown on those receipts described above will be credited to the Fund.
 - (g) No amount credited to the Fund will be transferred out of the Fund or disbursed other than:
 - (i) for the Sole Purpose;
 - (ii) for investing or lending in the pursuit of the Sole Purpose; or
 - (iii) on the winding up of the Fund or upon the revocation of the Foundation's status as a deductible gift recipient in accordance with rule 6.
-

4 Administration and management

4.1 The Committee

The Fund will be controlled or administered by a committee, the majority of whom must be individuals with a degree of responsibility to the general community (**Committee**).

4.2 Board as the Committee

- (a) If all of the directors of the Foundation alone form the Committee then the Foundation board:
 - (i) must be constituted in such a way as to meet the requirement described at rule **Error! Reference source not found.**;
 - (ii) will be responsible for meeting all of the obligations of the Committee described in these rules; and
 - (iii) must ensure all decisions made by the Foundation directors in their capacity as the Committee of the Fund are properly recorded and readily identified as decisions of the Committee.
- (b) Where the Foundation directors form the Committee and these rules require the Committee to seek Foundation director approval, it is sufficient for the Foundation directors, either meeting separately or under a specific agenda item at a general directors' meeting, to make a decision in its own right, provided such decisions are made in accordance with the *Corporations Act 2001* (Cth), *Australian Charities and Not-for-Profits Commission Act 2012* (Cth) and the Foundation's constitution.

4.3 Proper use of funds

The Committee must ensure the Fund is administered and the funds of the Fund are used:

- (a) in accordance with all relevant charitable fundraising and taxation laws; and
- (b) in a manner consistent with the Foundation's financial management and reporting policies and procedures.

5 Not-for-profit

- (a) Subject to rule 5(b), the assets and income of the Fund must be applied solely in furtherance of the Sole Purpose and no portion of the income or assets of the Fund may be paid or transferred, directly or indirectly, to any member of the Committee, or members or directors of the Foundation.
- (b) The Fund may, with the approval of the Committee, make payment in good faith to any member of the Committee, or members or directors of the Foundation:
 - (i) by way of reasonable and proper payment for any goods supplied or services rendered to, or for the benefit of, the Fund;
 - (ii) by way of interest on money lent to the Fund by that person at a reasonable and proper rate per annum not exceeding the rate for the time being charged by the Foundation's bankers on overdrawn accounts;
 - (iii) by way of reasonable and proper rent for premises let by that person to, or for the benefit of, the Fund;
 - (iv) by way of a grant (or similar contribution) awarded in furtherance of the Sole Purpose;
 - (v) as a result of the person's participation in a social bond or similar program of the Fund; and
 - (vi) for authorised out-of-pocket expenses reasonably and properly incurred by that person in connection with the affairs of the Fund.

6 Winding up and revocation of endorsement

Upon the winding up or dissolution of the Fund or upon the revocation of the Foundation's deductible gift recipient status, the Foundation must:

- (a) satisfy all liabilities of the Fund from the Fund's assets; and
- (b) ensure the following assets remaining after the payment of all liabilities in accordance with rule 6(a) are distributed to another fund, authority or institution in Australia with similar objects to the Fund, which is charitable at law and which is endorsed as a deductible gift recipient:
 - (i) deductible gifts of money or property received;
 - (ii) deductible contributions made in relation to an eligible fundraising event; and
 - (iii) money received by the Foundation because of such deductible gifts and contributions.

7 Changes to these rules

These rules may only be amended by resolution of the Foundation directors and in accordance with the Foundation's constitution.

8 Notifying the Australian Taxation Office

The Australian Taxation Office must be notified of:

- (a) any change to these rules; or
- (b) any change within the Foundation affecting the operational or financial arrangements of the Fund.

s 22

From: DGR Inbox
Sent: Tuesday, 25 May 2021 11:34 AM
To: Executive Director
Cc: DGR Inbox
Subject: RE: The Governor-General's Australian Future Leaders Foundation [SEC=OFFICIAL]

Follow Up Flag: Follow up
Flag Status: Flagged

OFFICIAL

Good morning Chris,

Thank you for your time on the phone this morning, and for providing us with:

- Donation estimates; and
- The Australian Future Leaders Foundation’s (the Foundation) Constitution to support its specific listing application.

We will begin processing the Foundation’s application, and will be in touch if we require anything further. Thank you.

If you have any further queries, please contact me through dgr@treasury.gov.au.

Kind regards,

s 22

Analyst
Not for Profit Unit | Individuals and Indirect Tax Division | Revenue Group
Phone: +s 22

OFFICIAL

From: Executive Director s 47F
Sent: Tuesday, 25 May 2021 8:38 AM
To: DGR Inbox <DGR@TREASURY.GOV.AU>
Subject: Re: The Governor-General's Australian Future Leaders Foundation [SEC=OFFICIAL]

On 25 May 2021, at 08:32, Executive Director s 47F wrote:

Good morning s 22

thank you for your email and as requested I attach the Constitution for The Governor-General’s Australian Future Leaders Foundation below. If there is anything else I can add to the original submission, the Constitution and the Public Fund Rules please let me know.

The animated summary of the program may be found here <https://vimeo.com/548792752/3b7d3f636e> and serves a quick introduction to this nation building program.

I anticipate that Treasury are concerned about foregone revenue and observe that, although impossible to predict with accuracy, there will be very few individual donors entitled to a tax

deductible receipt. It is my expectation that the majority of donations will come from Public and Private Ancillary Funds, who will not be claiming a tax receipt.

Excluding payment for services and the limited funds expected from sponsorships and public donations, the vast majority of the funding will need to come from high wealth individuals and families (which increasingly give through their public and private ancillary funds).

We will not be able to seek such contributions without DGR endorsement, which means the whole viability of the Foundation and its initiatives depends on obtaining DGR endorsement through specific listing.

Year One
Individuals s 45
Businesses
Ancillary Funds
s 45

Year Two
Individuals s 45
Businesses
Ancillary Funds
s 45

Year Three
Individuals s 45
Businesses
Ancillary Funds
s 45

Year Four
Individuals s 45
Businesses
Ancillary Funds
s 45

ACNC registration remains en train.

Kind regards

Chris Hartley
s 47F

On 12 May 2021, at 09:17, DGR Inbox <DGR@TREASURY.GOV.AU> wrote:

OFFICIAL

Good morning Chris,

Thank you for your email attaching the specific listing application for The Australian Future Leaders Foundation (the Foundation).

As a specific listing request is a change in the tax law, Ministerial and Government approval is required. It can take around two years to process a successful application and amend the tax law, depending on the priorities of the Government's

legislation program. An organisation only becomes a specifically listed DGR after the tax law has been amended to reflect this.

Specific listing is only available in exceptional circumstances. Of the over 30,000 entities with DGR status, only around 200 are specifically listed. Applicants must meet a high bar to merit listing by name in the tax law.

Thank you for providing us with a copy of the Foundation's Public Fund Rules. To progress your application further, we would be grateful if you could please provide us with:

- A copy of the Foundation's Constitution, a link to a website is acceptable as well; and
- The rough estimates of the tax-deductible donations that the Foundation expects to receive in the next four years, should it be successful in obtaining DGR status, inputted into the table below.

	Year 1	Year 2	Year 3	Year 4
Individuals				
Business				
Ancillary Funds				

We would also be grateful if you could please notify us with the outcome of the registration process with the Australian Charities and Not-for-profits Commission.

If you have any queries, please contact me through dgr@treasury.gov.au.

Kind regards,

s 22

Analyst

Not for Profit Unit | Individuals and Indirect Tax Division | Revenue Group

Phone: +s 22

OFFICIAL

-----Original Message-----

From: Chris Hartley s 47F

Sent: Thursday, 29 April 2021 8:17 AM

To: DGR Inbox <DGR@TREASURY.GOV.AU>

Subject: The Governor-General's Australian Future Leaders Foundation

Dear Treasurer,

please find attached correspondence and a request for expedited DGR status for The Governor-General's Australian Future Leaders Foundation.

Correspondence also copied to the Official Secretary and PM&C.

Thank you very much.

Kind regards

Chris Hartley

Executive Director

s 47F

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From: [Rowbotham, Jacky](#)
To: s 22
Cc: s 22
Subject: RE: re: Question from PM&C registered charity and deductible gift [SEC=OFFICIAL]
Date: Friday, 18 June 2021 3:49:07 PM
Attachments: [image001.png](#)

OFFICIAL

Hi s 22

I have checked with my team and Treasury has received Chris Hartley's 27 April 2021 application for specific listing for the Australia Future Leaders Foundation.

The application is being progressed for consideration in MYEFO as per the usual process. If specific listing is supported by the Government, the Foundation would likely be listed in the ITAA97 in the Autumn sittings 2022. The Foundation would not be eligible for DGR endorsement before this time.

Please get in touch if you would like to discuss further.

Cheers

Jacky

Jacky Rowbotham

Assistant Secretary

Not-for-Profits & Tax Administration Branch

The Treasury, Langton Crescent, Parkes ACT 2600

phone: +61 2 6263 3350

mobile: +s 22

email: jacky.rowbotham@treasury.gov.au

OFFICIAL

From: s 22 <[redacted]@pmc.gov.au>

Sent: Thursday, 17 June 2021 10:12 AM

To: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>

Subject: RE: re: Question from PM&C registered charity and deductible gift [SEC=OFFICIAL]

Hi Jacky

Thanks for getting in touch about this – is there a good time to catch you today?

Cheers

s 22

Senior Adviser

Government Division | Department of the Prime Minister and Cabinet

e. s 22 <[\[redacted\]@pmc.gov.au](mailto:[redacted]@pmc.gov.au)> | w. www.pmc.gov.au | p. s 22

One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



From: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>

Sent: Tuesday, 8 June 2021 6:37 PM

To: Barrett, Angela <Angela.Barrett@TREASURY.GOV.AU>; s 22 <[redacted]@pmc.gov.au>

Subject: RE: re: Question from PM&C registered charity and deductible gift [SEC=OFFICIAL]

OFFICIAL

No worries Angela. I have left a message with s 22 J

Jacky Rowbotham

Assistant Secretary

Not-for-Profits & Tax Administration Branch

The Treasury, Langton Crescent, Parkes ACT 2600

phone: +61 2 6263 3350

mobile: s 22

email: jacky.rowbotham@treasury.gov.au

OFFICIAL

From: Barrett, Angela <Angela.Barrett@TREASURY.GOV.AU>

Sent: Tuesday, 8 June 2021 4:53 PM

To: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>; s 22
@pmc.gov.au>

Subject: re: Question from PM&C registered charity and deductible gift [SEC=OFFICIAL]

OFFICIAL

Jacky

Can you please give s 22 (cc'd) a call in relation to some questions about a foundation that is applying to be registered as a charity.

s 22 raised these with me when we were discussing an unrelated matter and I said I would connect him with the right contact.

s 22 | Senior Adviser

Government Division | Department of the Prime Minister and Cabinet

s 22

Regards

Angela

Dr Angela Barrett

Assistant Secretary Executive Coordination and Governance

Corporate and Foreign Investment Group

The Treasury, Langton Crescent, Parkes ACT 2600

Ph: +61 2 6263 4745 | M: +s 22 | Email: angela.barrett@treasury.gov.au

www.treasury.gov.au

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The Treasury acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, water and community. We pay our respects to them and their cultures and to elders both past and present.

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return email informing them of the mistake and delete all copies of the message from your computer system.

From: s 22
To: s 22
Cc: [Rowbotham, Jacky](#); s 22
Subject: Australian Future Leaders Foundation [SEC=OFFICIAL:Sensitive]
Date: Monday, 5 July 2021 11:02:10 AM
Attachments: [GGAFL.Treasurer.DGR.27.04.21.PDF](#)
[3455-3418-5747_5_Constitution - The Australian Future Leaders Foundation.pdf](#)

OFFICIAL:Sensitive

Hello s 22

I believe you were speaking with Jacky about the Australian Future Leaders Foundation's application for specific listing.

Please find attached their application and constitution. At this stage we expect costing information to be ready around early August.

Kind Regards,

s 22

A/g Director

Not-for-profit Unit, Individuals and Indirect Tax Division

The Treasury, Langton Crescent, Parkes ACT 2600

phone: (02) s 22

mobile: s 22

email: s 22 [@treasury.gov.au](mailto:s 22@treasury.gov.au)

OFFICIAL:Sensitive

Constitution

The Australian Future Leaders Foundation Limited
ACN 649 403 654

A public company limited by guarantee

13 April 2021

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Part A – Preliminary matters

1 Defined terms and interpretation

The Dictionary and Interpretation provisions in Schedule 1:

- (a) define some of the terms used in this constitution;
- (b) set out the rules of interpretation which apply to this constitution; and
- (c) clarify the effect of the Corporations Act on this constitution.

2 Name, nature of company and liability

- (a) The name of the company is The Australian Future Leaders Foundation Limited or, if the name is lawfully changed in accordance with the Corporations Act and this constitution, that name.
- (b) The company is a public company limited by guarantee which is established to be, and to continue as, a charity.
- (c) The liability of each member is limited. Each member guarantees to contribute up to a maximum of \$10 to the assets of the company if it is wound up while the member is a member, or within one year afterwards, and at the time of winding up the debts and liabilities of the company exceed its assets. The liability of each member is limited to making such contribution and no more.

Part B – Purpose

3 Purpose and activities of the company

3.1 Purpose

The purpose of the company is to advance education, with a focus on building the skills, experience and capability of Australia's future leaders (**Charitable Purpose**).

3.2 Activities

The activities of the company must be conducted in the furtherance of its Charitable Purpose and may include:

- (a) providing education and educational courses relating to leadership skills and strategies;
- (b) promoting and encouraging education related to leadership;
- (c) engaging with Australian Governments and universities to facilitate leadership training and educational courses;

- (d) developing educational material and content, taking from top performing leaders and leadership training from Australia and overseas;
- (e) establishing and fostering a vibrant alumni community; and
- (f) any other activities ancillary to or necessary for the fulfilment of the Charitable Purpose.

Part C – Members and membership

4 Membership

4.1 Members of the company

- (a) The members of the company are those:
 - (i) noted as such on the application for the incorporation of the company; and
 - (ii) applicants that have been admitted as members of the company in accordance with rule 4.2, and have not since ceased to be a member.
- (b) If an applicant is admitted as a member of the company, the secretary must ensure:
 - (i) the applicant is given notice of admission as a member of the company; and
 - (ii) the name and details of the applicant are entered in the members' register in accordance with rule 4.5.
- (c) The secretary must ensure that each applicant not admitted as a member of the company is informed of this decision. The directors may, but are not required to, provide reasons for the decision not to admit an applicant into membership.

4.2 Becoming a member

- (a) To be eligible to become a member of the company an applicant must:
 - (i) have a genuine commitment to and an understanding of the Charitable Purpose; and
 - (ii) be 18 years of age or older.
- (b) To become a member of the company an applicant must:
 - (i) satisfy the eligibility criteria under rule 4.2(a);
 - (ii) be admitted into membership by a resolution of directors ; and

- (iii) ensure that all information provided when applying for membership of the company is true and accurate and is not misleading or deceptive.
- (c) The directors may, at their complete discretion, choose to postpone the assessment of all (but not some) membership applications received during the period between the calling of a general meeting and the holding of the general meeting to which the notice relates, or any adjournments of that meeting (including by modifying any application delegations or processes).

4.3 Member's rights

In addition to the voting rights set out in rule 6.8, each member has the right to receive notices of and to attend and be heard at any general meeting of the company.

4.4 Membership not transferable

Membership of the company and the associated rights cannot be transferred or sold in any manner whatsoever.

4.5 Register of members

- (a) A register of members must be kept in accordance with the law.
- (b) Without limiting the requirement under rule 4.5(a), the following must be entered in the register in respect of each member:
 - (i) the name and address of the member;
 - (ii) the date of admission to and cessation of membership; and
 - (iii) any other information required by the directors or the law from time to time.

4.6 Membership fees

- (a) Unless otherwise determined by the members, the joining fee and annual membership fee for membership of the company is \$0.
- (b) A member that has not paid the required membership fee in accordance with this rule 4.6 may not, for as long as the fee remains unpaid, exercise any of the rights associated with that member's membership, including the right to exercise any vote the member may have at a meeting of members.
- (c) The joining fee and annual membership fee that may be required under this rule 4.6 are exclusive of any GST that may be payable.

4.7 Membership renewal

The directors may, at their discretion, send a notice to one or more members requiring that member to confirm or to renew membership of the company and/or to confirm or update that member's details (**Membership Renewal Notice**).

5 Ceasing to be a member

5.1 General overview

- (a) There are a number of reasons why a member's membership will stop. For instance, if a member:
 - (i) resigns from membership (see rule 5.2);
 - (ii) automatically stops being a member (see rule 5.3); or
 - (iii) is expelled from membership (see rule 5.4).
- (b) The directors may adopt such other policies and procedures relating to the disciplining, suspension and expulsion of members as they so determine from time to time provided they are consistent with the requirements set out in this rule 5.
- (c) Where a member ceases to be a member in accordance with the law or this constitution, that member's name must be removed from the register of members.
- (d) Upon the removal of a member's name from the register of members:
 - (i) the member will forfeit all rights and privileges attached to membership and all rights which that member may have against the company arising out of the membership; and
 - (ii) the company will have no liability to such member in respect of that member's removal from the register of members.
- (e) Any member that ceases to be a member remains liable for:
 - (i) any moneys which may be owing by that member to the company; and
 - (ii) in the case of the company being wound up within one year of the date of cessation of membership, the relevant contribution under rule 2(c).

5.2 Resignation from membership

A member may resign from membership of the company at any time by providing written notice to the company addressed to the Chairperson or the secretary. Unless the notice provides otherwise, the resignation takes effect from the date the notice is received.

5.3 Automatic stopping of membership

A member's membership will automatically stop if the member:

- (a) dies;
- (b) ceases to be a director of the company;

- (c) fails to be appointed as a director within three months after being admitted into membership;
- (d) fails to pay any required membership fee in accordance with rule 4.6 within one month after the date on which that membership fee becomes due or such later time as the directors may determine; or
- (e) fails to return a Membership Renewal Notice in accordance with rule 4.7 within one month after the return due date specified in that notice or such later time as determined by the directors.

5.4 Disciplining, suspension and expulsion of members

- (a) This rule 5.4 describes what needs to happen when considering whether to discipline a member. In summary, the process involves:
 - (i) putting the member in question on notice and giving the opportunity to provide information; and
 - (ii) passing a directors' resolution to warn, suspend, expel or otherwise discipline that member.
- (b) Provided the steps set out in this rule 5.4 are followed, the directors may resolve to warn, suspend, expel or otherwise discipline a member if that member:
 - (i) has refused or failed to comply with the provisions of this constitution; or
 - (ii) has acted in a way that, in the opinion of the directors, is, or could be, prejudicial to the interests or reputation of the company,

(Member Disciplinary Resolution).

- (c) The directors must give the member in question at least 14 days' prior notice of the date that the directors will consider the Member Disciplinary Resolution. This notice must be in writing and inform the member:
 - (i) that the directors are to consider warning, suspending, expelling or otherwise disciplining the member (as the case may be);
 - (ii) of the reasons why the directors are considering taking the determined action;
 - (iii) of the right for the member to give the directors, either orally or in writing, any explanation or defence relevant to the proposed disciplinary action;
 - (iv) of the date, place and time of the meeting at which the resolution is to be considered; and
 - (v) of the right for the member to attend the meeting at which the resolution is to be considered but not to be present during any director deliberations or the putting of or voting on the resolution unless the directors resolve otherwise.

- (d) Where a director is also a member subject to a Member Disciplinary Resolution, that director is not entitled to vote on the relevant Member Disciplinary Resolution.
 - (e) Where a Member Disciplinary Resolution relates to the expulsion of a member, such resolution must be passed as a special resolution of at least 75% of directors. Any other Member Disciplinary Resolution, including in relation to the warning or suspension of a member, may be passed as an ordinary resolution of directors.
 - (f) Directors must notify the relevant member in writing about the directors' decision within 14 days after the date a Member Disciplinary Resolution is passed, but failure to do so does not invalidate the decision.
 - (g) The directors' decision in relation to the Member Disciplinary Resolution is final and takes effect as at the date the Member Disciplinary Resolution is passed.
-

6 General meetings

6.1 Introduction

- (a) For as long as the company is registered as a charity with the Australian Charities and Not-for-profits Commission or its successor, and for as long as the law permits or requires, the directors:
 - (i) unless the Corporations Act otherwise requires a meeting of members for a particular resolution to be passed, may determine whether or not to hold meetings of members including annual general meetings;
 - (ii) must ensure that the Australian Charities and Not-for-profits Commission Governance Standards, in particular Governance Standard 2 relating to accountability to members, are complied with; and
 - (iii) must ensure that if the company does hold a meeting of members, it does so in accordance with this constitution and the Corporations Act despite the fact that the provisions of the Corporations Act dealing with members' meetings may not be directly applicable to the company.
- (b) If there is any inconsistency between the Corporations Act and this constitution with respect to the calling and holding of members' meetings then, to the extent permitted by law, the provisions of this constitution will prevail.

6.2 Calling of general meetings

A general meeting of members may be initiated by:

- (a) a resolution of the directors;
- (b) the members in accordance with the Corporations Act; or
- (c) the court in accordance with the Corporations Act.

6.3 Notice of general meetings

- (a) Subject to the provisions of the Corporations Act dealing with consent to short notice, if a general meeting of members (including any annual general meeting) is called under rule 6.2 at least 21 days' notice of that meeting must be given to each person who is at the date of the notice:
 - (i) a member of the company eligible to receive notices of meetings;
 - (ii) a director of the company; or
 - (iii) the auditor of the company.
- (b) A notice of a general meeting must specify:
 - (i) the date, time and place of the meeting;
 - (ii) if the meeting is to be held in two or more places, the technology that will be used to facilitate the meeting;
 - (iii) the general nature of the business to be transacted at the meeting, including the text of any resolutions to be proposed at the meeting; and
 - (iv) any other matters required under the law.
- (c) Notwithstanding rule 6.3(b), where the company holds an annual general meeting, the ordinary business of that meeting may include any of the following, even if not referred to in the notice of meeting:
 - (i) the consideration of the annual financial report, the directors' report and the auditor's report; and
 - (ii) the appointment of the auditor and the fixing of the auditor's remuneration.
- (d) A person who is entitled to receive notice of a general meeting or who is requested by the Chairperson to attend a general meeting is entitled to be present whether or not the person is a member.

6.4 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair (if required) and the adjournment of the meeting, unless a quorum is present when the meeting proceeds to business and the quorum remains present throughout the meeting.
- (b) The quorum for a general meeting of members is a majority of current members present in person or by proxy and entitled under these rules to vote at a general meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (i) where the meeting was convened by, or at the request of, a member or members, the meeting must be dissolved; or

- (ii) where the meeting was convened by, or at the request of, the directors or the court:
 - (A) the meeting stands adjourned to the day, and at the time and place, as the directors determine or, if no determination is made by the directors, to the same day in the next week at the same time and place;
 - (B) at the adjourned meeting the quorum is two members present in person or by proxy and entitled under these rules to vote at a general meeting; and
 - (C) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.
- (d) In determining whether a quorum is present pursuant to rule 6.4(b) or 6.4(c)(ii)(B):
 - (i) if an individual is attending both as a member and as a proxy, the individual must only be counted once; and
 - (ii) if a member has appointed more than one proxy, only one proxy must be counted.

6.5 Chair of general meetings

- (a) Subject to rule 6.5(b), the Chairperson must preside as chair at each general meeting.
- (b) If at a general meeting:
 - (i) there is no Chairperson;
 - (ii) the Chairperson is absent from the meeting (or part of the meeting); or
 - (iii) the Chairperson is present but is prevented from acting or not willing to act as chair of the meeting or of part of the meeting,

the Deputy Chairperson (if there is one) must preside as chair of that meeting or part of it until such time as the Chairperson joins the general meeting or can resume the role of chair (as applicable).

- (c) Subject to rules 6.5(a) and 6.5(b), if at a general meeting:
 - (i) there is no Chairperson and no Deputy Chairperson;
 - (ii) the Chairperson and Deputy Chairperson are absent from the meeting (or part of the meeting); or
 - (iii) the Chairperson and Deputy Chairperson are present but are prevented from acting or not willing to act as chair of the meeting or of part of the meeting,

the members present may elect a person present to be chair of that meeting or part of it until such time as the Chairperson or Deputy Chairperson joins the general meeting or can resume the role of chair (as applicable).

6.6 Conduct of and participation in general meetings

- (a) The chair of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting and may require the adoption of any procedures which are in the opinion of the chair necessary or desirable for:
 - (i) proper and orderly debate or discussion; and
 - (ii) the proper and orderly casting or recording of votes.
- (b) The chair of a general meeting at which a quorum is present must if so directed by the members present with a majority of votes, adjourn the meeting from time to time and place to place. However, no business is to be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (c) Notice of an adjournment and the business to be transacted at an adjourned meeting must be given to all persons who were entitled to receive notice of the meeting the subject of the adjournment.
- (d) In addition to the rights provided for in rule 6.3(a)(iii) and 6.3(c), the auditor of the company (if any) will be entitled to be heard at any general meeting which the auditor attends.
- (e) A meeting of members may be held in two or more places linked together by any technology provided it:
 - (i) gives the members as a whole in those places a reasonable opportunity to participate in proceedings;
 - (ii) enables the chair to determine whether the person participating in the meeting is in fact a member or attorney of a member;
 - (iii) enables the chair of the meeting to be aware of proceedings in each place; and
 - (iv) enables the members in each place to vote on a Show of Preference and on a poll.

6.7 Decisions at general meetings

- (a) Except in the case of any resolution which under this constitution or as a matter of law requires a special resolution, questions arising at a general meeting are to be decided by a majority of votes cast by the members present at the meeting (including being present by technological means) and who are entitled to vote. Such decision is then for all purposes a decision of the members.
- (b) In the case of an equality of votes upon any proposed resolution at a meeting of members the chair may exercise a second or casting vote in addition to any vote the chair may have as a member of the company.
- (c) Unless a poll is demanded, a resolution put to the vote of a general meeting must be decided on a show of preference of members, with each member present indicating a preference by a means appropriate to that member and that is readily interpreted and understood by the chair (**Show of Preference**).
- (d) A member may only exercise one vote on a Show of Preference regardless of whether that member also holds one or more proxies.
- (e) A poll may be demanded before a vote being decided by a Show of Preference is taken or before or immediately after the declaration of the result of the Show of Preference:
 - (i) by the chair of the meeting;
 - (ii) by at least five members present and entitled to vote on the relevant resolution; or
 - (iii) by a member or members present at the meeting and representing at least 5% of the votes that may be cast on the resolution on a poll.
- (f) Unless a poll is demanded, a declaration by the chair on the result of a vote on a Show of Preference is decisive of the outcome of that resolution. Such declaration does not need to refer to the number or proportion of votes for or against the resolution.
- (g) Except for a poll on the question of an adjournment which must be taken immediately, if a poll is demanded at a general meeting, it will be taken when and in the manner that the chair directs, and in all cases the result of the poll will be recorded as a resolution of the meeting at which the poll was demanded.
- (h) A poll cannot be demanded at a general meeting on the appointment of a chair of the meeting.
- (i) The demand for a poll may be withdrawn.

6.8 Voting rights

- (a) Each member has the right to exercise one vote:
 - (i) on a Show of Preference at a meeting of members;
 - (ii) on a poll at a meeting of members; and

- (iii) when voting upon a resolution to be determined without a meeting under rule 6.11.
- (b) An objection to the qualification of a person to vote at a general meeting:
 - (i) must be raised before or immediately after the result of the resolution for which the vote objected to is given; and
 - (ii) must be referred to the chair of the meeting, whose decision is final.
- (c) A vote not disallowed by the chair of a meeting under rule 6.8(b) is valid for all purposes.

6.9 Representation at general meetings

- (a) Subject to this constitution, each member entitled to vote at a meeting of members may vote:
 - (i) in person;
 - (ii) by proxy in a form as the directors may prescribe or accept; or
 - (iii) by attorney in a form as the directors may prescribe or accept.
- (b) A proxy or attorney may, subject to rule 4.2, be a member of the company but does not need to be.
- (c) The chair of a meeting may require any person purporting to act as a proxy or attorney to establish to the satisfaction of the chair that the person has been validly appointed as a proxy or attorney and is the person named in the relevant instrument of appointment, failing which the chair may exclude that person from attending or voting at the meeting.
- (d) If the company receives a proxy form from a member without the name of the proxy in that proxy form filled in, then the proxy of that member will be:
 - (i) the person specified by the company in the proxy form as being the proxy; or
 - (ii) if no such person is specified by the company in the proxy form, the chair of the meeting for which that proxy applies.
- (e) A proxy or attorney may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy or attorney is received:
 - (i) at the registered office of the company or at another place or electronic address specified for that purpose in the notice convening the meeting; and
 - (ii) at least 48 hours before the time scheduled for the commencement of the meeting.
- (f) Unless the company has received prior written notice of one or more of the circumstances listed at rules 6.9(f)(i) to 6.9(f)(iii), a vote cast by a proxy or

attorney at a meeting of members is valid even if, before the proxy or attorney votes:

- (i) the member dies, or in the case of a member that is a body corporate is subject to an insolvency event, is dissolved or wound up;
 - (ii) the member revokes the proxy's or attorney's appointment; or
 - (iii) the member revokes the authority under which a third party appointed the proxy or attorney.
- (g) Unless otherwise permitted by the chair, the authority of a proxy or attorney to speak and vote for a member at a general meeting is suspended while that relevant member is present at the meeting.

6.10 Meetings conducted using technological means

- (a) Subject to the Corporations Act and this constitution, the contemporaneous linking together by a form of technology of a number of members sufficient to constitute a quorum constitutes a general meeting.
- (b) Where a general meeting is held at two or more venues using any form of technology:
 - (i) a member participating in the meeting is taken to be present in person at the meeting;
 - (ii) the provisions of this constitution relating to general meetings apply, so far as they can and with such changes as are necessary, to general meetings held using that technology;
 - (iii) the meeting is taken to be held at the place determined by the chair provided that at least one of the members present at the meeting was at the place for the duration of the general meeting; and
 - (iv) the conduct of the meeting must comply with any policies and procedures relating to the meetings conducted using technological means as determined by the directors from time to time.
- (c) If the technology used in rule 6.10(b) encounters a technical difficulty, whether before or during the general meeting, which results in a member not being able to participate in the meeting, the chair may, subject to the Corporations Act and the requirements of rule 6.4 being satisfied:
 - (i) allow the meeting to continue; or
 - (ii) adjourn the meeting either for a reasonable period of time as may be required to fix the technology or to such other date, time and location as the chair of the meeting considers appropriate.
- (d) For the avoidance of doubt, where the chair has allowed the general meeting to continue in accordance with rule 6.10(c)(i), any resolution passed at that meeting is valid.

- (e) Subject to the Corporations Act and this constitution, the directors may make policies and procedures relating to the passing of member resolutions by technological means as determined by the directors from time to time.

6.11 Decisions without meetings

Unless the Corporations Act requires the holding of a meeting, members may pass resolutions and otherwise make decisions outside of a members' meeting in any manner (including through the use of technology) provided:

- (a) all members entitled to vote on the resolutions are sent a copy of the resolutions and are given a reasonable time to respond considering the urgency and nature of the matters under consideration;
- (b) each such resolution is passed by at least a 75% majority of all current members (unless a higher number or threshold is required under this constitution or by law); and
- (c) such manner complies with:
 - (i) the law; and
 - (ii) any policies and procedures relating to the passing of member resolutions as determined by the directors from time to time.

6.12 Resolutions of single member company

If the company has only one member, the company may pass a resolution by that member recording it and signing the record. That record is to be taken as a minute of the passing of that resolution.

Part D – Not-for-profit

7 No profits for members

- (a) Subject to rule 7(b), the assets and income of the company must be applied solely in furtherance of the Charitable Purpose and no portion of the income or assets of the company may be paid or transferred, directly or indirectly, to any member.
- (b) The company may, with the approval of the directors, make payment in good faith to a member of the company:
 - (i) by way of reasonable and proper payment for any goods supplied or services rendered to the company (including payment as a consultant or employee);
 - (ii) by way of interest on money lent to the company by that member at a reasonable and proper rate per annum not exceeding the rate for the time being charged by the company's bankers on overdrawn accounts;

- (iii) by way of reasonable and proper rent for premises let by that member to the company;
 - (iv) by way of a grant (or similar contribution) awarded in furtherance of the Charitable Purpose;
 - (v) as a result of the member's participation in a social bond or similar program of the company; and
 - (vi) for authorised out-of-pocket expenses reasonably and properly incurred by that member in connection with the affairs of the company.
- (c) For the avoidance of doubt, nothing in this rule 7:
- (i) prevents a member from receiving such services as may ordinarily be provided by the company in the course of undertaking its activities; or
 - (ii) prohibits a member from receiving a minor benefit that is directly related to membership of the company.

Part E – Directors and secretary

8 Directors

8.1 Number of directors

- (a) The minimum number of directors is three. Subject to rule 8.1(b), the maximum number of directors is nine.
- (b) The directors may change the maximum number of permitted director positions in the manner required by the Corporations Act.
- (c) If at any time the number of directors falls below three, the remaining director or directors may act but only:
 - (i) in an emergency;
 - (ii) for the purpose of convening a general meeting of the company; or
 - (iii) for the purpose of increasing the number of directors to three.

8.2 Becoming a director

Subject to rules 8.3 and 8.4, a person becomes a director of the company by appointment by the directors.

8.3 Qualifications and requirements of directors

To be eligible to become a director a person must:

- (a) be a member of the company;
- (b) be 18 years of age or older;

- (c) subject to rule 8.4(c), be nominated by the Nominations Committee;
- (d) not be ineligible to be a director under the Corporations Act or the ACNC Act;
- (e) have knowledge about and be committed to the Charitable Purpose; and
- (f) meet any other criteria relating to the composition of the board and skills and qualifications of directors as may be determined by the directors from time to time.

8.4 Nominations Committee

- (a) The directors must establish a committee for the purpose of seeking, assessing and nominating candidates for director positions (**Nominations Committee**).
- (b) The Nominations Committee must:
 - (i) be comprised of three people, one of whom must be a member;
 - (ii) be chaired by a person chosen by the members of the Nominations Committee; and
 - (iii) ensure the board is comprised of directors who collectively have the skills, experience, knowledge and diversity needed to further the Charitable Purpose.
- (c) The directors may appoint one or more persons as a director without first receiving a nomination from the Nominations Committee in the following circumstances:
 - (i) to increase the number of directors to the minimum required under rule 8.1(a);
 - (ii) if a director position has been vacant for at least six months and the Nominations Committee has not nominated anyone appropriate to fill the vacant position; or
 - (iii) if the law requires.
- (d) Each appointment made under rule 8.4(c) is to be for a period of up to 12 months with the precise period to be determined by the directors at the time of the appointment.

8.5 Directors' term of office and term limits

- (a) The term of office of a director, other than a director appointed under rule 8.4(c), commences on the date that person is appointed as a director and continues for the period determined by the directors at the time of appointment – such period not to exceed three years.
- (b) Each director is to remain as a director until that person's term of office expires or until that person resigns or is otherwise removed as a director of the company in accordance with the law and this constitution.

- (c) A person who holds, or has held, the position of director is not restricted in how many terms of office that person may serve and is eligible for reappointment.

8.6 Ceasing to be a director

- (a) In addition to the circumstances prescribed by law (including the Corporations Act and the ACNC Act), the office of any director becomes vacant if the director:
 - (i) dies;
 - (ii) is, due to physical or mental impairment, unable to properly perform the duties of a director, as determined by a suitably qualified professional acting reasonably;
 - (iii) is convicted of an indictable offence;
 - (iv) ceases to be a member; or
 - (v) fails to attend three or more consecutive directors' meetings in any 12 month period without leave of absence approved by the directors.
- (b) Nothing in rule 8.6(a) prevents a director from vacating office by providing a written notice of resignation to the company addressed to the Chairperson or the secretary. Unless the notice provides otherwise, the resignation takes effect from the date the notice is received.

8.7 Payments to directors

- (a) Directors must not receive any payment for acting as a director but, subject to rule 8.7(b), each director is entitled to:
 - (i) be reimbursed for all reasonable authorised travelling and other expenses properly incurred by them in connection with the affairs of the company, including attending and returning from general meetings of the company, meetings of the directors and meetings of committees; and
 - (ii) receive payment for any goods supplied or services rendered to the company (other than in their role as a director), as long as the amount is proper and reasonable in the circumstances.
- (b) Notwithstanding anything else in this constitution, no payment of any kind can be made by the company to a director unless that payment is approved by:
 - (i) the directors; or
 - (ii) such other person or persons to whom the directors may have delegated such authority in a way consistent with rule 8.17 or rule 8.18.

8.8 Interested directors

- (a) No contract made by a director with the company and no contract or arrangement entered into by or on behalf of the company in which any director may be in any way interested is voided or rendered voidable merely because the director holds office as a director or because of the fiduciary obligations arising out of that office.
- (b) Each director must disclose all personal interests and other matters that could, or do, give rise to a conflict of interest in relation to a matter or decision being considered by the directors.
- (c) Where a director has a material personal interest in a matter to be considered at a meeting, that director must not be present while the matter is being considered at the meeting or vote on the matter, unless the directors who do not have a material personal interest pass a resolution in accordance with the Corporations Act which permits that director to do so.
- (d) If rule 8.8(c) operates to the effect that there are not enough directors to form a quorum for a directors' meeting, one or more directors (including those who have a material personal interest) may call a general meeting and the general meeting may pass a resolution to deal with the matter.
- (e) Subject to rule 8.8(f), a director who is in any way interested in a contract or arrangement (other than by having a material personal interest which is to be dealt with in accordance with rule 8.8(c)) may, despite that interest:
 - (i) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement;
 - (ii) sign or countersign any document relating to that contract or arrangement; and
 - (iii) remain present in the meeting and vote in relation to that contract or arrangement or any matter arising out of those things.
- (f) Rule 8.8(e) does not apply if, and to the extent that, it would be contrary to law.

8.9 Powers and duties of directors

- (a) The directors are responsible for the governance, business and affairs of the company and may exercise all the powers of the company which are not required by the law or this constitution to be exercised by the members.
- (b) The directors must comply with their duties as directors under legislation and common law. For as long as the company is registered as a charity with the Australian Charities and Not-for-profits Commission or its successor, the company must also ensure the directors comply with the requirements described in Governance Standard 5 of the regulations made under the ACNC Act which are to ensure the directors:
 - (i) exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the company;

- (ii) act in good faith in the best interests of the company and to further the Charitable Purpose;
 - (iii) do not misuse their position as a director;
 - (iv) do not misuse information that they gain in their role as a director;
 - (v) disclose any perceived or material conflicts of interest;
 - (vi) ensure that the financial affairs of the company are managed responsibly; and
 - (vii) do not allow the company to operate while insolvent.
- (c) Where permitted by the Corporations Act, if the company has only one member, and is a wholly-owned subsidiary of that member, a director may act in the best interests of the member.

8.10 Directors' meetings

- (a) The directors may hold meetings (including by technological means) for the conduct of business and regulate them as they think fit.
- (b) The directors should meet as often as required for the proper discharge of their directors' duties and in any event no less than four times per year.

8.11 Convening of meetings of directors

A meeting of directors may be convened by the Chairperson or any two of the directors.

8.12 Notice of directors' meetings

- (a) Notice of a directors' meeting must be given to each current director, other than a director on leave of absence approved by the directors.
- (b) A notice of a directors' meeting must:
 - (i) be given in a way permitted by rule 14;
 - (ii) specify the time and place of and, if relevant, the form of technology for, the meeting;
 - (iii) state the nature of the business to be transacted at the meeting; and
 - (iv) be provided with sufficient time for the directors to properly consider the subject matter contained within the notice and any accompanying materials.
- (c) A resolution passed at a directors' meeting is valid even in circumstances where a director did not receive notice of the meeting, provided:
 - (i) the notice was not received because of accident or error;

- (ii) before or after the meeting, that director notifies the company of their agreement with the resolution; or
- (iii) the director attended the meeting.

8.13 Quorum for directors' meetings

- (a) No business may be transacted at a directors' meeting unless there is a quorum of directors at the time the business is dealt with.
- (b) A quorum consists of a majority of current directors.
- (c) For the avoidance of doubt, a director is present at a meeting if participating by technological means such as by telephone.
- (d) If, within 30 minutes after the time appointed for the meeting, a quorum is not present, then, without prejudice to the right of those present to discuss but not to vote on any matter, the meeting will be dissolved or stand adjourned to such time, date and place as those present at the meeting decide and as notified to all directors in accordance with rule 8.12(a).

8.14 Chairperson and Deputy Chairperson

- (a) The directors may appoint a director to the office of chairperson of directors (**Chairperson**) and may appoint a different director to the office of deputy chairperson of directors (**Deputy Chairperson**) and, subject to rule 8.5, determine the period for which each director is to hold such office.
- (b) The directors may remove a director from the office of Chairperson and Deputy Chairperson at any time but doing so does not remove that person as a director.
- (c) A person may only fill the office of Chairperson or Deputy Chairperson for as long as that person is a director of the company.
- (d) Subject to rule 8.14(e), the Chairperson must preside as chair at each directors' meeting.
- (e) If at a meeting of directors:
 - (i) there is no Chairperson;
 - (ii) the Chairperson is absent from the meeting (or part of the meeting); or
 - (iii) the Chairperson is present but is prevented from acting or not willing to act as chair of the meeting or of part of the meeting,the Deputy Chairperson (if there is one) must preside as chair of that meeting or part of it until such time as the Chairperson joins the meeting or can resume the role of chair (as applicable).
- (f) Subject to rules 8.14(d) and 8.14(e), if at a meeting of directors:
 - (i) there is no Chairperson and no Deputy Chairperson;

- (ii) the Chairperson and Deputy Chairperson are absent from the meeting (or part of the meeting); or
- (iii) the Chairperson and Deputy Chairperson are present but are prevented from acting or not willing to act as chair of the meeting or of part of the meeting,

the directors present may elect one of themselves to be chair of the meeting or part of the meeting until such time as the Chairperson or Deputy Chairperson joins the meeting or can resume the role of chair (as applicable).

8.15 Decisions of directors

- (a) A directors' meeting at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the directors under the law and this constitution.
- (b) Questions arising at a directors' meeting and any other matter to be determined by the directors under this constitution are (unless a higher number or threshold is required under the law or this constitution) to be decided by a majority of votes cast by the directors present. A decision of a kind made in accordance with this rule is for all purposes a determination of the directors.
- (c) If there are an equal number of votes cast for and against a resolution at a directors' meeting, then the chair may exercise a second or casting vote in addition to any vote the chair may have as a director of the company.

8.16 Decisions without meetings

Directors may pass resolutions outside of a directors' meeting in any manner (including through the use of technology) provided:

- (a) all directors other than a director on an approved leave of absence are sent a copy of the resolutions and are given a reasonable time to respond considering the urgency and nature of the matters under consideration;
- (b) any such resolution is passed by at least a two thirds majority of all current directors (unless a higher threshold is required by law or this constitution); and
- (c) such manner complies with:
 - (i) the law; and
 - (ii) any policies and procedures relating to the passing of director resolutions as determined by the directors from time to time.

8.17 Committees

- (a) In addition to the Nominations Committee established in accordance with rule 8.4, the directors may resolve to:
 - (i) establish one or more committees consisting of such persons as they determine;

- (ii) delegate to each committee such of their powers required for the effective and efficient running and administration of the committee;
 - (iii) revoke any or all of the powers delegated to each committee and vary the nature and scope of the powers delegated; and
 - (iv) change the makeup of a committee at any time or dissolve it all together.
- (b) A committee must be conducted, and exercise the powers delegated to it, in accordance with any directions of the directors which, for the avoidance of doubt, may be contained within policies, terms of reference, guidelines or protocols.
- (c) The directors may continue to exercise all of their powers despite any delegation made under this rule.

8.18 Delegation to individuals

- (a) The directors may resolve to delegate any of their powers to such individual or individuals as they so determine including:
- (i) to one or more directors;
 - (ii) to one or more members; or
 - (iii) to one or more employees.
- (b) The directors may delegate their powers for such time as they determine and may revoke or vary any power so delegated.
- (c) A person to whom any powers have been delegated must exercise the powers delegated in accordance with any directions of the directors.
- (d) The directors may continue to exercise all of their powers despite any delegation.
- (e) A delegation under this rule need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of a specified office or position.

8.19 Validity of acts

An act done by a director or by a meeting of the directors or a committee attended by a director is not invalid just because:

- (a) of a defect in the appointment of the director;
- (b) the person is disqualified from being a director or has vacated office; or
- (c) the person is not entitled to vote,

if that circumstance was not known by the person or the directors or committee, as the case may be, when the act was done.

9 Secretaries

- (a) The directors must appoint at least one secretary who may be, but does not need to be, a director.
- (b) The appointment of a secretary may be for the period, on the conditions and, subject to rule 9(c), at the remuneration as the directors determine.
- (c) A director must not be remunerated in that person's capacity as a secretary.
- (d) Subject to any contract between the company and the relevant secretary, a secretary of the company may be removed or dismissed by the directors at any time, with or without cause. If that person is a director, such removal or dismissal does not remove that person from office as a director.
- (e) The duties of the secretary include:
 - (i) ensuring that the necessary registers required by the law are established and properly maintained;
 - (ii) ensuring that any required annual returns and annual reports are lodged with the appropriate regulator on time; and
 - (iii) ensuring the organisation of, and attendance at, meetings of the members and the directors, including the sending out of notices, the preparation of agenda and the compilation of minutes.
- (f) An act done by a person acting as a secretary is not invalid just because:
 - (i) of a defect in the person's appointment as a secretary; or
 - (ii) the person is disqualified from being a secretary,if that circumstance was not known by the person or the directors when the act was done.

Part F – Winding up and loss of endorsement

10 Winding up

- (a) Before the company is wound up, it must first wind up each of the deductible gift recipient endorsed funds it operates (if any), in accordance with each fund's winding up requirements.
- (b) If upon the winding up or dissolution of the company there remains after satisfaction of all of its debts and liabilities, any property or moneys whatsoever (**Surplus Assets**), such Surplus Assets must only be given or distributed to one or more Eligible Recipients.
- (c) The decision about which Eligible Recipient is (or which Eligible Recipients are) to be given the Surplus Assets under rule 10(b) is to be determined:

- (i) by a resolution of the members at or before the winding up or dissolution of the company; or
- (ii) if no such resolution is passed, by the Supreme Court.

11 Loss of deductible gift recipient endorsement

- (a) If the company is endorsed as a deductible gift recipient as a whole and this endorsement is revoked, then the following assets remaining after the payment of all liabilities must be distributed to one or more Eligible Recipients:
 - (i) deductible gifts of money or property received for the Charitable Purpose;
 - (ii) deductible contributions made in relation to an eligible fundraising event held to raise funds for the Charitable Purpose; and
 - (iii) money received by the company because of such deductible gifts and contributions.
- (b) The decision about which funds, authorities or institutions are to receive the funds distributed in accordance with rule 11(a) is to be determined by a resolution of the members.

Part G – Administrative matters

12 Minutes, records and negotiable instruments

12.1 Minutes

The directors must ensure that the following minutes are recorded, approved and kept in accordance with the law:

- (a) meetings and resolutions of members (including those made without meetings under rule 6.11);
- (b) meetings and resolutions of directors (including those made without meetings under rule 8.16); and
- (c) meetings and resolutions of committees.

12.2 Inspection of records

- (a) Subject to the law and rule 12.2(b), the directors may determine whether and to what extent, and at what time and places and under what conditions, the minute books, accounting records and other documents of the company or any of them will be open for inspection.
- (b) A member may, upon reasonable notice to the directors, inspect any books, records or documents of the company, provided the information obtained is only used for a proper purpose in connection with membership of the company.

- (c) The company must establish and administer all registers required to be kept by law and each member must provide the company with such information as is required for the company to comply with this rule. If events occur which would cause the information contained in a register maintained by the company to be inaccurate the member must notify the company in writing of the change within 21 days of the member becoming aware that such change has occurred.
- (d) Unless proved incorrect, the register is sufficient evidence of the matters shown in the register.
- (e) The company must keep all financial and other records required by law.

12.3 Negotiable instruments

The directors may determine how cheques, promissory notes, banker's drafts, bills of exchange or other negotiable instruments or other documents must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of the company.

13 Indemnity and insurance

- (a) To the extent permitted by law, the company indemnifies its officers (both current and past) for all losses or liabilities incurred by the person as an officer of the company including, but not limited to, a liability for negligence or for legal costs on a full indemnity basis.
- (b) This indemnity:
 - (i) may only be for losses or liabilities incurred as an officer of the company (either before or after the adoption of this rule);
 - (ii) does not cover any loss or liability of an officer seeking to be indemnified under this rule if that loss or liability arises from that person's wilful misconduct or fraud; and
 - (iii) operates only to the extent that the loss or liability is not paid by insurance.
- (c) To the extent permitted by law, the company may take out and pay for insurance for the benefit of its officers (both current and past) against any liability incurred by the person as an officer of the company including, but not limited to, a liability for negligence or for legal costs.
- (d) To the extent permitted by law, the company may enter into an agreement (including a deed) with a person who is or agrees to become or has been an officer of the company on any terms and conditions that the directors think fit to give effect to the rights of that person under this rule 13. Any such agreement may also give the person rights to inspect and obtain copies of the books of the company for the purposes, and on such other terms and conditions, as the directors resolve.

14 Notices

14.1 Giving of notices

Any notice, document or other communication required or permitted to be given under this constitution or law may be given in any manner (including through the use of technology) provided such manner complies with:

- (a) the law; and
- (b) any policies and procedures relating to the giving and receiving of notices, documents and other communications as determined by the directors from time to time.

14.2 Timing of services

- (a) Where a notice is served personally, service of the notice is taken to be effected when delivered.
- (b) Where a notice is sent by post, service of the notice is taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post:
 - (i) in the case of a notice of a general meeting, on the day after the date of its posting; or
 - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (c) Where a notice is sent by electronic means, including email or fax, service of the notice is taken to be effected:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 30 minutes after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the notice has not been delivered,whichever happens first.
- (d) If the delivery or receipt of a notice is on a day which is not a Business Day or is after 5.00pm on a Business Day, it is deemed to be received at 9.00am on the following Business Day.

15 General

- (a) **Common seal:** The company may, but is not required to, have and use a common seal. If the directors determine that the company have a common seal, then it must be kept and used in accordance with the law.
- (b) **Formulating rules:** Without limiting the directors' powers under this constitution, the directors may from time to time make regulations and rules

about any matter related to the operations or conduct of the company (including establishing and maintaining a public fund), provided such regulations and rules are not inconsistent with the law or this constitution. If there is any inconsistency between regulations and rules formulated pursuant to this rule 15(b) and the provisions of this constitution or the law, the provisions of this constitution and the law will prevail.

- (c) **Submission to jurisdiction:** Each member submits to the non-exclusive jurisdiction of the Supreme Court of the State of New South Wales, the Federal Court of Australia and the Courts which may hear appeals from those Courts.

Schedule 1 Dictionary

1 Dictionary

In this constitution:

ACNC Act means the *Australian Charities and Not-for-Profits Commission Act 2012* (Cth).

Business Day means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in the place where the company's registered office is located.

Chairperson has the meaning given at rule 8.14(a).

Charitable Purpose has the meaning given at rule 3.1.

Corporations Act means the *Corporations Act 2001* (Cth).

Deputy Chairperson has the meaning given at rule 8.14(a).

Eligible Recipient means an organisation that:

- (a) has charitable objects or purposes similar to the Charitable Purpose;
- (b) has a governing document which requires its income and property to be applied in promoting its objects and agrees to use any distribution provided to it by the company to further such objects or purposes;
- (c) is registered as a charity with the Australian Charities and Not-for-profits Commission;
- (d) by law or its constituent rules, is prohibited from distributing, and does not distribute, its income and property amongst its members (either while it is operating or upon winding up) to an extent at least as great as is imposed upon the company; and
- (e) if the company is endorsed as a deductible gift recipient for the purpose of any Australian federal tax law, is similarly endorsed as a deductible gift recipient.

Member Disciplinary Resolution has the meaning given at rule 5.4(b).

Membership Renewal Notice has the meaning given at rule 4.7.

Nominations Committee has the meaning given at rule 8.4.

Show of Preference has the meaning given at rule 6.7(c).

Surplus Assets has the meaning given at rule 10(b).

2 Interpretation

2.1 General

- (a) In this constitution the words 'constitution', 'director', 'secretary', 'member' and the like are, and should be interpreted to be, references to the constitution, director, secretary, member and the like (as the case may be) of the company named in rule 2(a) unless the context otherwise requires.
- (b) A reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (c) In this constitution, headings are for convenience only and do not affect the interpretation of this constitution.
- (d) Unless the contrary intention appears, in this constitution:
 - (i) words importing the singular include the plural and vice versa;
 - (ii) words importing a gender include every other gender;
 - (iii) words used to denote persons generally include any individual, company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (iv) a reference to any statute, regulation, proclamation, ordinance or by-laws includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
 - (v) the words 'including', 'such as', 'for example' and the like are not, and should not be interpreted to be, words of limitation, unless explicitly stated otherwise; and
 - (vi) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) A requirement in this constitution for something to be carried out in writing will be satisfied if the matter in question is carried out in some other lawful manner that is approved by the directors.
- (f) In this constitution, where communication from a member to the company must be 'signed' by a member, in addition to any other methods permitted by law, the member may sign in any manner that allows the directors to be satisfied, acting reasonably, that the communication is from the relevant member, including by using an electronic signature.

- (g) 'Writing' or 'written' includes modes of representing or reproducing words, figures, drawings or symbols in a visible or tactile form which renders the message retrievable by people who know the language in question.

2.2 Replaceable rules not to apply

The replaceable rules contained in the Corporations Act from time to time do not apply to the company.

From: s 22
To: s 22
Cc: s 22
Subject: FW: MYEFO DGR proposals [SEC=PROTECTED, CAVEAT=SH:CABINET]
Date: Tuesday, 9 November 2021 3:02:00 PM
Attachments: [image001.jpg](#)
[image002.png](#)
[fGTp1dY9-taHGGbl617x5DLw-i8OKf4vplfPA6h8UHK1.docx](#)
[DIU93d9QSf7FBtwTTCirGyxid9mcGtEPOHAGdAT8Ee41.docx](#)

~~PROTECTED//CABINET~~

Hi s 22

We have been working on the basis that the s 22 GR NPPs will be included in the Treasury PBS scheduled for s 34(2), but the final list of NPPs and the issue of authority is still being considered and agreed between our CFO area and the Treasurer’s Office.

I have attached the draft NPPs here for your reference in the meantime and I understand s 22 has talked you through our potential draft Pink positions – please just let us know if you need anything further.

We will let you know as soon as we hear anything finite on process and timing through our channels.

Cheers

s 22

~~PROTECTED//CABINET~~

From: s 22 <s22@pmc.gov.au>
Sent: Tuesday, 9 November 2021 11:14 AM
To: s 22 <s22@TREASURY.GOV.AU>
Cc: s 22 <s22@TREASURY.GOV.AU>
Subject: MYEFO DGR proposals [SEC=PROTECTED, CAVEAT=SH:CABINET]

~~PROTECTED//CABINET~~

Hi s 22

Called earlier but missed you.

Last time we spoke I understand there were s 22 GR proposals (one for specific listing of a particular entity, s 22) that will be coming forward in MYEFO Treasury Portfolio Submission for ERC consideration on s 34(2).

Checking if they’re still going ahead, and if so, whether you have settled authority to come at MYEFO.

If you happen to have draft NPPs that you could share with us that would be greatly appreciated.

Many thanks

s 22 | Adviser
Taxation, Superannuation and Financial Sector Policy | Economic Division
Department of the Prime Minister and Cabinet

P: s 22 <s22@pmc.gov.au | tax@pmc.gov.au

Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

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~~PROTECTED//CABINET~~

s 22

From: s 22 @pmc.gov.au>
Sent: Tuesday, 26 April 2022 5:57 PM
To: s 22
Cc: Rowbotham, Jacky; s 22
Subject: RE: QoN - DGR Gurkha Welfare Fund Australia Limited [SEC=OFFICIAL:Sensitive]

Thanks so much s 22 appreciate the quick confirmation!

Many thanks

s 22

s 22

Taxation, Superannuation and Financial Sector Policy
Economic Division | Department of the Prime Minister and Cabinet
p. s 22

From: s 22 @TREASURY.GOV.AU>
Sent: Tuesday, 26 April 2022 5:56 PM
To: s 22 @pmc.gov.au>
Cc: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @pmc.gov.au>; s 22 @pmc.gov.au>
Subject: RE: QoN - DGR Gurkha Welfare Fund Australia Limited [SEC=OFFICIAL:Sensitive]

Hi s 22 – no issues from us. Thanks, s 22

From: s 22 @pmc.gov.au>
Sent: Tuesday, 26 April 2022 5:42 PM
To: s 22 @TREASURY.GOV.AU>
Cc: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @pmc.gov.au>; s 22 @pmc.gov.au>
Subject: RE: QoN - DGR Gurkha Welfare Fund Australia Limited [SEC=OFFICIAL:Sensitive]

Hi s 22

Thanks for your response and checking over our draft answers.

Through our clearance process we've moved to being a bit more streamlined in our response. Can you please check over our current drafted responses and confirm you're comfortable (again)? Our key concern is the second paragraph in the first question regarding backdating.

Very happy to discuss if you'd like to give me a buzz.

Many thanks

s 22

s 22

Taxation, Superannuation and Financial Sector Policy
Economic Division | Department of the Prime Minister and Cabinet
p. s 22

From: s 22 <[redacted]@TREASURY.GOV.AU>
Sent: Tuesday, 26 April 2022 3:41 PM
To: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>; s 22 <[redacted]@TREASURY.GOV.AU>; s 22 <[redacted]@pmc.gov.au>; s 22 <[redacted]@pmc.gov.au>
Subject: RE: QoN - DGR Gurkha Welfare Fund Australia Limited [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Hi s 22
Thank you for reaching out about this QoN.
We have made some suggestions in the attached version of the response for your consideration.
Please do not hesitate to call if you would like to discuss any aspect.
Kind regards
s 22

s 22
Director
Not-for-profit Unit | Individuals and Indirect Tax Division | Revenue Group
The Treasury, Langton Crescent, Parkes ACT 2600
Phone: +s 22

s 22 <[redacted]>

OFFICIAL:Sensitive

From: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>
Sent: Thursday, 21 April 2022 6:03 PM
To: s 22 <[redacted]@TREASURY.GOV.AU>
Cc: s 22 <[redacted]@TREASURY.GOV.AU>
Subject: FW: QoN - DGR Gurkha Welfare Fund Australia Limited [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

OFFICIAL:Sensitive

From: s 22 <[redacted]@pmc.gov.au>
Sent: Thursday, 21 April 2022 4:10 PM
To: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>
Cc: Tax and Financial Sector Policy <Tax@pmc.gov.au>
Subject: RE: QoN - DGR Gurkha Welfare Fund Australia Limited [SEC=OFFICIAL:Sensitive]

Hi Jacky

Thank you again for sharing your briefing, that was very useful! We've drafted a response to each question below leveraging your briefing, can you please look over for accuracy? Please also let us know if you're comfortable with the level of detail provided or if there's anything we should cut.

Grateful for a **response by midday Tuesday (26th)** please so that we can respond to our Senate Estimates coordinators by their deadline. If you'd like to discuss further feel free to give me a buzz.

Many thanks
s 22

Question 1:

Senator AYRES: One of Mr Hartley's other charities, the Gurkha Welfare Fund Australia Limited, was delisted for failing to lodge reports to the charity regulator. Did your due diligence process pick that up?

Mr Reid: I'm aware of that.

Senator AYRES: The entity was listed in MYEFO—I think you were referring to this earlier, Minister—in a small update of specifically listed deductible gift recipients, and its status was legislated just last week. Can you tell me whether the Prime Minister, his office or the department was involved in any discussions about DGR status for the foundation?

Mr Reid: PM&C was involved in discussions about the status.

Senator AYRES: And deductible gift recipient status was backdated to 1 July 2021—is that right?

Mr Reid: I'd have to take that on notice, I don't have that information in front of me.

Senator AYRES: Why would that have been the case?

Mr Reid: Senator, I'll have to take that on notice.

Draft response:

Please note we have taken the "earlier" entity as *The Australian Future Leaders Foundation Limited* and have based our response accordingly. Gurkha Welfare Fund Australia Limited is not specifically listed as a Deductible Gift Recipient (DGR).

The Australian Future Leaders Foundation Limited was provided with DGR status from 1 July 2021 through the specific listing process. The 1 July 2021 effective date of DGR specific listing was due to the entity applying for DGR specific listing on 27 April 2021, by emailing Treasury at dgr@treasury.gov.au [**Treasury – please confirm the email process was used rather than writing to the AT?**]. There were six entities to be listed as DGRs in *Treasury Laws Amendment (Cost of Living Support and Other Measures) Act 2022*. Of these, five entities, including The Australian Future Leaders Foundation Limited, were announced in the 2021-22 MYEFO and listed as DGRs from 1 July 2021.

Question 2:

Senator AYRES: Who made the request for DGR status? Was it the department or the Governor-General's office? How was that advanced?

Mr Reid: The Department of the Treasury manages them. I'd have to take on notice the process—

Senator AYRES: Do you fill in a form? What is there? How does it—

Mr Reid: There's a process.

Senator AYRES: I'd like to know when the process began and who advanced it. Are you able to come back to us later in the day?

Mr Reid: I'll do my best, Senator.

Draft response:

The Australian Future Leaders Foundation Limited requested for DGR specific listing on 27 April 2021 by emailing Treasury at dgr@treasury.gov.au [**Treasury – please confirm the email process was used rather than writing to the AT?**]. **The application was consistent with the information advised to be included, as publically available on Treasury's website.** Treasury's consideration of the application was routine. Treasury sought further information from the applicant on 12 May 2021, including requesting estimates of donations expected to be received, a copy of the foundation's constitution, and information on the outcome of its registration process with the Australian Charities and Not-for-profits Commission. This information was received by Treasury on 25 May 2021.

Treasury undertook costing of the expected impact on revenue of this application during June 2021. The proposal for DGR specific listing of The Australian Future Leaders Foundation Limited was considered through the budget process and subsequently announced in the 2021-22 MYEFO on 16 December 2021.

Treasury received confirmation from the Australian Taxation Office that The Australian Future Leaders Foundation Limited had met the public fund requirements on 8 February 2022. Treasury requested and received an ASIC certificate of registration from The Australian Future Leaders Foundation Limited on 9 February 2022. The Australian Future Leaders Foundation Limited was consequently included in the next appropriate legislative vehicle, *The Treasury Laws Amendment (Cost of Living Support and Other Measures) Act 2022*, alongside five other entities that had similarly passed the public fund requirement check. The bill was introduced and passed by both Houses of Parliament on 30 March 2022 and received Royal Assent on 31 March 2022.

s 22

Taxation, Superannuation and Financial Sector Policy
Economic Division | Department of the Prime Minister and Cabinet
p. (02) s 22

From: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>
Sent: Wednesday, 20 April 2022 12:43 PM
To: s 22 <[redacted]@pmc.gov.au>
Cc: Tax and Financial Sector Policy <Tax@pmc.gov.au>
Subject: RE: QoN - DGR Gurkha Welfare Fund Australia Limited [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s 22

Attached is the briefing we prepared for Senate Estimates on the listing of the Australian Future Leaders Foundation Limited which should help inform the responses to PM&C's QoN on the entity.

Kind regards
Jacky

Jacky Rowbotham
Assistant Secretary | Not-for-profits & Tax Administration Branch
The Treasury
p: (02) 6263 3350 | m: s 22
e: jacky.rowbotham@treasury.gov.au

OFFICIAL: Sensitive

From: s 22 <[redacted]@pmc.gov.au>
Sent: Tuesday, 19 April 2022 4:35 PM
To: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>
Cc: s 22 <[redacted]@pmc.gov.au>
Subject: QoN - DGR Gurkha Welfare Fund Australia Limited [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi Jacky

Thanks again for your time on the phone before. As discussed, we're trying to get to the bottom of the apparent specific DGR listing (later revoked) of **Gurkha Welfare Fund Australia Limited**. I've copied the transcript below for the specific question (#48) we've been assigned.

We've been unable to find anything on the Gurkha Welfare Fund on our side. Grateful for any light you can shed, including whether the question is incorrect. If it's more appropriate we redirect this question to Treasury as well please let me know.

Happy to discuss.

Many thanks
s 22

Senator AYRES: One of Mr Hartley's other charities, the Gurkha Welfare Fund Australia Limited, was delisted for failing to lodge reports to the charity regulator. Did your due diligence process pick that up?

Mr Reid: I'm aware of that.

Senator AYRES: The entity was listed in MYEFO—I think you were referring to this earlier, Minister—in a small update of specifically listed deductible gift recipients, and its status was legislated just last week. Can you tell me whether the Prime Minister, his office or the department was involved in any discussions about DGR status for the foundation?

Mr Reid: PM&C was involved in discussions about the status.

Senator AYRES: And deductible gift recipient status was backdated to 1 July 2021—is that right?

Mr Reid: I'd have to take that on notice, I don't have that information in front of me.

Senator AYRES: Why would that have been the case?

Mr Reid: Senator, I'll have to take that on notice.

s 22

p. (02)s 22

e s 22

[@pmc.gov.au](mailto:pmc@pmc.gov.au) | w. www.pmc.gov.au

Taxation, Superannuation and Financial Sector Policy

Economic Division | Department of the Prime Minister and Cabinet

Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

Please Note: The information contained in this e-mail message and any attached files may be confidential information and may also be the subject of legal professional privilege. If you are not the intended recipient, any use, disclosure or copying of this e-mail is unauthorised. If you have received this e-mail by error please notify the sender immediately by reply e-mail and delete all copies of this transmission together with any attachments.

IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

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IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

s 22

From: s 22
Sent: Wednesday, 29 September 2021 5:37 PM
To: s 22
Cc: Rowbotham, Jacky; s 22
Subject: s 34(3)
Attachments:

~~PROTECTED//CABINET~~

Hi s 22

As per our discussion on Tuesday, please see attached our s 34(3) If you have any comments please let us know.

As we discussed, it is proposed to add the s 22 NPPs to the Treasury PBS – the relevant clearance deadlines for that Cabinet Submission are outlined in the table below – if you have any questions please let us know.

Kind regards

s 22

Item	Indicative Due Date
FAS cleared ED NPPs and CabSub input (for ED)	Friday 1 October 2021
<i>ED to Executive Board</i>	<i>Friday 8 October 2021</i>
<i>ED to Treasurer's Office</i>	<i>Wednesday 13 October 2021</i>
<i>Lodge ED with Treasurer's approval</i>	<i>Wednesday 20 October 2021</i>
FAS cleared redrafted NPPs and CabSub input (for Co-ord)	Thursday 28 October 2021
<i>Lodge Co-ord with Treasurer's approval</i>	<i>Wednesday 3 November 2021</i>
FAS cleared Blue input and talking points	Thursday 4 November 2021
<i>Lodge Final with Treasurer's approval</i>	<i>Monday 8 November 2021</i>
<i>Blue and talking points to Treasurer's Office</i>	<i>Tuesday 9 November 2021</i>

~~PROTECTED//CABINET~~

s 22

From: s 22
Sent: Monday, 15 November 2021 5:11 PM
To: s 22
Cc: s 22; RG TAD SES (OLD); s 22; Mrakovcic, Marvonne; Pinks, Quinn, Meghan; RG IITD SES; Kelly, Lynn; s 22
Subject: Pinks for comment by 2pm Tomorrow [SEC=PROTECTED, CAVEAT=SI:CABINET]
Attachments: s 22; Treasury PBS - DGR specific listings.docx; s 22

~~PROTECTED//CABINET~~

Hi Finance and PM&C colleagues,

Please find attached s 34(2) . We would appreciate comments back by 2pm tomorrow.

Since the coord version of the Treasury PBS has not yet been released, we may need to amend these pinks if there are any unanticipated changes.

Can all comments please be emailed to s 22 @treasury.gov.au.

Don't hesitate to give me a call if there is anything you would like to discuss.

s 22
 Analyst
 Tax Analysis Division | Revenue Group
 s 22 @treasury.gov.au ☎ 02 6263 xxxx
 s 22

~~PROTECTED//CABINET~~

s 22

From: s 22
Sent: Monday, 15 November 2021 1:26 PM
To: s 22
Cc: s 22 Rowbotham, Jacky
Subject: RE: AT office request - talking points ~~[SEC - PROTECTED, CAVEAT - SH: CABINET]~~
Attachments: s 34(3) with amendment)
(002).docx; s 44

Hello s 22

As requested, please find attached the talking points (that include financial implications) that have been provided for the blue brief process.

Kind Regards,

s 22

s 22
Assistant Director

Not-for-profit Unit, Individuals and Indirect Tax Division
The Treasury, Langton Crescent, Parkes ACT 2600
phone: s 22
mobile: s 22
email: s 22 [@treasury.gov.au](mailto:s 22@treasury.gov.au)

From: s 22 @TREASURY.GOV.AU>
Sent: Monday, 15 November 2021 10:22 AM
To: s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>
Cc: s 22 @TREASURY.GOV.AU>
Subject: RE: AT office request - talking points ~~[SEC - PROTECTED, CAVEAT - SH: CABINET]~~

~~PROTECTED//CABINET~~

Hi s 22

More than happy for you to send up the talking points you've already prepared. Just double check they have the costs as well before sending them to this office 😊

Thanks,
s 22

~~PROTECTED//CABINET~~

From: s 22 @TREASURY.GOV.AU>
Sent: Monday, 15 November 2021 10:17 AM
To: s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>
Cc: s 22 @TREASURY.GOV.AU>
Subject: RE: AT office request - talking points ~~[SEC - PROTECTED, CAVEAT - SH: CABINET]~~

~~PROTECTED//CABINET~~

Hi s 22 – we have done some talking points as part of the Blue briefing process, which is being coordinated by Treasury’s CFOD. The TO should get them via that channel but we are happy to send to you directly if that assists the process?
s 22

~~PROTECTED//CABINET~~

From: s 22 <s22@TREASURY.GOV.AU>
Sent: Monday, 15 November 2021 10:15 AM
To: s 22 <s22@TREASURY.GOV.AU>; s 22 <s22@TREASURY.GOV.AU>
Cc: s 22 <s22@TREASURY.GOV.AU>; s 22 <s22@TREASURY.GOV.AU>
Subject: AT office request - talking points ~~(SEC PROTECTED, CAVEAT - SH.CABINET)~~

~~PROTECTED//CABINET~~

Hi s 22

Apologies for the short turnaround. s 22 has asked if you could please pull together some talking points on the DGR specific listings s 22 in the PBS by COB Tuesday. They don’t need to be too detailed, just brief summaries with costs etc. so s 22 can assist the TO.

Happy for you to email it through, copying in Min Processing who can then create a PDMS record after the TPs have been provided.

Thanks,
s 22

s 22 | Departmental Liaison Officer
Office of the Hon Michael Sukkar MP
Assistant Treasurer | Minister for Housing | Minister for Homelessness, Social and Community Housing
M1.17, Parliament House, Canberra, ACT 2600 | Ph (02) 6277 7230

~~PROTECTED//CABINET~~

s 22

From: s 22
Sent: Wednesday, 17 November 2021 5:42 PM
To: Rowbotham, Jacky; s 22
Cc: s 22; McCullough, Paul; s 22
Subject: FW: Pinks for Lodgement - s 34(2) ERC (SEC - PROTECTED, CAVEAT - SH.CABINET)
Attachments: s 34(3)

~~PROTECTED//CABINET~~

Hi Jacky, s 22

CFO would like our confirmation that we are happy with this comment under 'Sensitivities' in the s 34(3)

s 34(3)

Could you please confirm that you are happy with the wording and I'll go back to s 22 ?

Regards

s 22
Assistant Director (a/g)
Indirect, Industry and State Tax Branch
Individuals and Indirect Tax Division
Revenue Group
The Treasury
T: +s 22 @treasury.gov.au

~~PROTECTED//CABINET~~

From: s 22 @treasury.gov.au
Sent: Wednesday, 17 November 2021 5:26 PM
To: s 22 @TREASURY.GOV.AU; s 22 @TREASURY.GOV.AU
Cc: Fraser, Bede <Bede.Fraser@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU;
s 22 @TREASURY.GOV.AU; McCullough, Paul <Paul.McCullough@TREASURY.GOV.AU>;
s 22 @TREASURY.GOV.AU; s 22 @TREASURY.GOV.AU; Gersbach, Tarnya <Tarnya.Gersbach@TREASURY.GOV.AU>;
Williamson, Elizabeth <Elizabeth.Williamson@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU;
Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>; Fraser, Bede <Bede.Fraser@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU; s 22 @TREASURY.GOV.AU;
s 22 @TREASURY.GOV.AU; s 22 @TREASURY.GOV.AU; s 22 @TREASURY.GOV.AU; McCullough, Paul <Paul.McCullough@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU
Subject: RE: Pinks for Lodgement - s 34(2) ERC (SEC - PROTECTED, CAVEAT - SH.CABINET)

~~PROTECTED//CABINET~~

Hi s 22

As discussed with s 22, Finance have reissued the PBS Green to include the s 22 DGR pinks. I've added in some text on the DGR specific listings s 22 could you please confirm IITD's comfort / edit as required.

Regards

s 22

The Treasury, Langton Crescent, Parkes ACT 2600
Phone: +s 22

~~PROTECTED//CABINET~~

From: s 22

Sent: Wednesday, 17 November 2021 2:28 PM

To: s 22 <s 22@TREASURY.GOV.AU>; s 22

<s 22@TREASURY.GOV.AU>

Cc: Fraser, Bede <Bede.Fraser@TREASURY.GOV.AU>; s 22 <s 22@TREASURY.GOV.AU>;
s 22 <s 22@TREASURY.GOV.AU>; McCullough, Paul <Paul.McCullough@TREASURY.GOV.AU>;
s 22 <s 22@TREASURY.GOV.AU>; s 22

<s 22@TREASURY.GOV.AU>; Gersbach, Tarnya <Tarnya.Gersbach@TREASURY.GOV.AU>;

Williamson, Elizabeth <Elizabeth.Williamson@TREASURY.GOV.AU>; s 22

<s 22@TREASURY.GOV.AU>; Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>; Fraser,

Bede <Bede.Fraser@TREASURY.GOV.AU>; s 22 <s 22@TREASURY.GOV.AU>; s 22

<s 22@TREASURY.GOV.AU>; s 22

<s 22@TREASURY.GOV.AU>; s 22

<s 22@TREASURY.GOV.AU>; s 22

<s 22@TREASURY.GOV.AU>; McCullough, Paul

<Paul.McCullough@TREASURY.GOV.AU>

Subject: RE: Pinks for Lodgement - s 34(2) ERC (~~SEC - PROTECTED, CAVEAT - CUI - CABINET~~)

~~PROTECTED//CABINET~~

Hi all

The TO are expecting the DGR items are coming into the room and that they will need background info on each DGR recipient added to the Talking Points. Could you please revise the DGR talking points and return as soon as possible.

s 22

Regards

s 22

The Treasury, Langton Crescent, Parkes ACT 2600
Phone: s 22

~~PROTECTED//CABINET~~

From: s 22 <s 22@TREASURY.GOV.AU>

Sent: Wednesday, 17 November 2021 11:18 AM

To: s 22 <s 22@treasury.gov.au>; s 22 <s 22@TREASURY.GOV.AU>

Cc: Fraser, Bede <Bede.Fraser@TREASURY.GOV.AU>; s 22 <s 22@TREASURY.GOV.AU>;

s 22 <s 22@TREASURY.GOV.AU>; McCullough, Paul <Paul.McCullough@TREASURY.GOV.AU>;

s 22 <s 22@TREASURY.GOV.AU>; s 22

<s 22@TREASURY.GOV.AU>; Gersbach, Tarnya <Tarnya.Gersbach@TREASURY.GOV.AU>;

Williamson, Elizabeth <Elizabeth.Williamson@TREASURY.GOV.AU>; s 22

<s 22@TREASURY.GOV.AU>; Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>; Fraser,

Bede <Bede.Fraser@TREASURY.GOV.AU>; s 22 <s 22@TREASURY.GOV.AU>; s 22

s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; McCullough, Paul <Paul.McCullough@TREASURY.GOV.AU>
Subject: RE: Pinks for Lodgement - s 34(2) ERC ~~[SEC - PROTECTED, CAVEAT - SH: CABINET]~~

Hi s 22

Thanks for your email and apologies for the delay in getting back to you.

In terms of your question regarding the DGR specific listings, Treasury has provided briefing to the Office, so they are aware of Treasury's position. We've spoken to the team in IITD and they are of the view that it isn't necessary to highlight this in the blue. The position in the pink, and the briefing to date, is sufficient.

s 22

Otherwise, we don't think there is a need to update the other talking points. In saying that, please let us know if you think there is something we have missed.

Kind regards

s 22

s 22
Analyst
Personal Rates and Thresholds Unit | Individual and Indirect Taxation Division | Revenue Group
Phone: +s 22
s 22

From: s 22 @treasury.gov.au>
Sent: Wednesday, 17 November 2021 7:42 AM
To: s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>
Cc: Fraser, Bede <Bede.Fraser@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; McCullough, Paul <Paul.McCullough@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; Gersbach, Tarnya <Tarnya.Gersbach@TREASURY.GOV.AU>; Williamson, Elizabeth <Elizabeth.Williamson@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>; Fraser, Bede <Bede.Fraser@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; McCullough, Paul <Paul.McCullough@TREASURY.GOV.AU>
Subject: FW: Pinks for Lodgement - s 34(2) ERC ~~[SEC - PROTECTED, CAVEAT - SH: CABINET]~~

~~PROTECTED//CABINET~~

Hi s 22

You would have seen these, but could you please update the talking points sent through on Thurs/Friday for the Pinks.

In particular, s 34(3) could you please let me know how we normally handle this in blues – I understand that this is reasonably normal for each round, so it would be good to get some guidance.

Later this morning I'll send through some proposed text in the covering blue for review.

Regards

s 22

The Treasury, Langton Crescent, Parkes ACT 2600
Phone: s 22

~~PROTECTED/CABINET~~

From: s 22 @TREASURY.GOV.AU>
Sent: Tuesday, 16 November 2021 6:35 PM
To: s 22 @TREASURY.GOV.AU>
Cc: s 22 @TREASURY.GOV.AU>; s 22 @treasury.gov.au>; s 22 @TREASURY.GOV.AU>
Subject: FW: Pinks for Lodgement - s 34(2) ERC ~~(SEC-PROTECTED, CAVEAT-SH-CABINET)~~

Hi s 22 as discussed please find attached the pinks for the Treasury PBS sub.

s 22

Analyst
Indirect Tax and Tax System Analysis Branch | Tax Analysis Division | Revenue Group
Phone: +s 22

From: s 22 @TREASURY.GOV.AU>
Sent: Tuesday, 16 November 2021 6:31 PM
To: s @finance.gov.au>; s 22 @pmc.gov.au>
Cc: s @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>;
Mrakovic, Maryanne <Maryanne.Mrakovic@treasury.gov.au>; Quinn, Meghan <Meghan.Quinn@TREASURY.GOV.AU>; RG IITD SES <RGIITDSES@TREASURY.GOV.AU>; Kelly, Lynn <Lynn.Kelly@treasury.gov.au>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>
Subject: Pinks for Lodgement - s 34(2) ERC ~~(SEC-PROTECTED, CAVEAT-SH-CABINET)~~

Many thanks Finance and PM&C for your comments on these.

Finance, please find attached the final pinks for lodgement.

s 22

Treasury Pinks Team
Tax Analysis Division | Revenue Group
s 22 @treasury.gov.au ☎ 02 6263 xxxx
s 22

From: s 22
Sent: Monday, 15 November 2021 5:11 PM
To: s @finance.gov.au>; s 22 @pmc.gov.au>
Cc: s 22 @TREASURY.GOV.AU>; RG TAD SES

<RGTADSES@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>;
Mrakovcic, Maryanne <Maryanne.Mrakovcic@treasury.gov.au>; s 22 @TREASURY.GOV.AU>; Quinn, Meghan
<Meghan.Quinn@TREASURY.GOV.AU>; RG IITD SES <RGIITDSES@TREASURY.GOV.AU>; Kelly, Lynn
<Lynn.Kelly@treasury.gov.au>; Hawkins, Adam <Adam.Hawkins@TREASURY.GOV.AU>; s 22
@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22
@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22
@TREASURY.GOV.AU>; s 22 @TREASURY.GOV.AU>; s 22
@TREASURY.GOV.AU>

Subject: Pinks for comment by 2pm Tomorrow ~~(SEC PROTECTED, CAVEAT - CH CABINET)~~

~~PROTECTED//CABINET~~

Hi Finance and PM&C colleagues,

Please find attached the pinks for the s 34(2) ERC for comment. We would appreciate comments back by 2pm tomorrow.

Since the coord version of the Treasury PBS has not yet been released, we may need to amend these pinks if there are any unanticipated changes.

Can all comments please be emailed to s 22 @treasury.gov.au.

Don't hesitate to give me a call if there is anything you would like to discuss.

s 22

Analyst

Tax Analysis Division | Revenue Group

s 22 @treasury.gov.au ☎ 02 6263 xxxx

s 22

~~PROTECTED//CABINET~~

s 22

From: s 22 @pmc.gov.au>
Sent: Wednesday, 1 December 2021 1:14 PM
To: s 22
Cc: s 22 s 22 Rowbotham, Jacky
Subject: RE: re: Question from PM&C registered charity and deductible gift ~~(SEC. PROTECTED, CAVEAT - SH.CABINET)~~

Hi s 22

Many thanks for this advice. We understand the Protected/Cabinet nature of this information and will not share it with applicant.

We'll be in touch should we have any further questions.

Many thanks,
s 22

s 22 | Adviser
Department of the Prime Minister and Cabinet
p. (02) s 22 @pmc.gov.au w. pmc.gov.au

From: s 22 @TREASURY.GOV.AU>
Sent: Wednesday, 1 December 2021 1:10 PM
To: s 22 @pmc.gov.au>
Cc: s 22 @pmc.gov.au>; s 22 @TREASURY.GOV.AU>; Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>
Subject: RE: re: Question from PM&C registered charity and deductible gift ~~(SEC. PROTECTED, CAVEAT - SH.CABINET)~~

~~PROTECTED//CABINET~~

Hello s 22

Sorry for my delay in getting back to you. s 34(3) this information is not to be shared with the applicant.

We expect the outcomes of the current bundle of successful specific listing applications to be announced in the upcoming Mid-Year Economic and Fiscal Outlook (MYEFO). Typically, the Assistant Treasurer will write to the applicants informing them of the outcome, any conditions and next steps. These letters are not dispatched until after MYEFO has been released.

Please get in touch if you have any further queries,

s 22

s 22
Assistant Director

Not-for-profit Unit, Individuals and Indirect Tax Division
The Treasury, Langton Crescent, Parkes ACT 2600
phone: s 22

mobile s 22
email: s 22 @treasury.gov.au

~~PROTECTED/CABINET~~

From: s 22 @pmc.gov.au>
Sent: Thursday, 25 November 2021 3:45 PM
To: s 22 @TREASURY.GOV.AU>
Cc: s 22 @pmc.gov.au>
Subject: FW: re: Question from PM&C registered charity and deductible gift [SEC=OFFICIAL]

Dear s 22

You may recall that my AS Peter Rush and myself met with you a few months back to discuss the DGR process.

Grateful for any information you may have on the outcome of the DGR status request for the Australian Future Leaders Foundation? I understand this was due to be considered sometime this week?

Happy to discuss over the phone if this is more convenient.

Many thanks in advance for your advice,
s 22

s 22 | Adviser
Department of the Prime Minister and Cabinet
p. s 22 @pmc.gov.au w. pmc.gov.au

From: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>
Sent: Friday, 18 June 2021 3:49 PM
To: s 22 @pmc.gov.au>
Cc: s 22 @TREASURY.GOV.AU>
Subject: RE: re: Question from PM&C registered charity and deductible gift [SEC=OFFICIAL]

OFFICIAL

Hi s 22

I have checked with my team and Treasury has received Chris Hartley's 27 April 2021 application for specific listing for the Australia Future Leaders Foundation.

The application is being progressed for consideration in MYEFO as per the usual process. If specific listing is supported by the Government, the Foundation would likely be listed in the ITAA97 in the Autumn sittings 2022. The Foundation would not be eligible for DGR endorsement before this time.

Please get in touch if you would like to discuss further.

Cheers
Jacky

Jacky Rowbotham
Assistant Secretary
Not-for-Profits & Tax Administration Branch

The Treasury, Langton Crescent, Parkes ACT 2600
phone: +61 2 6263 3350
mobile: s 22
email: jacky.rowbotham@treasury.gov.au

OFFICIAL

From: s 22
Sent: Thursday, 17 June 2021 10:12 AM
To: Rowbotham, Jacky
Subject: RE: re: Question from PM&C registered charity and deductible gift [SEC=OFFICIAL]

Hi Jacky

Thanks for getting in touch about this – is there a good time to catch you today?

Cheers

s
2
2

s 22 Senior Adviser

Government Division | Department of the Prime Minister and Cabinet

e s 22 [@pmc.gov.au](mailto:s22@pmc.gov.au) | w. www.pmc.gov.au | p s 22

One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

From: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>
Sent: Tuesday, 8 June 2021 6:37 PM
To: Barrett, Angela <Angela.Barrett@TREASURY.GOV.AU>; s 22 [@pmc.gov.au](mailto:s22@pmc.gov.au)>
Subject: RE: re: Question from PM&C registered charity and deductible gift [SEC=OFFICIAL]

OFFICIAL

No worries Angela. I have left a message with s 22. J

Jacky Rowbotham
Assistant Secretary
Not-for-Profits & Tax Administration Branch

The Treasury, Langton Crescent, Parkes ACT 2600
phone: +61 2 6263 3350
mobile: s 22
email: jacky.rowbotham@treasury.gov.au

OFFICIAL

From: Barrett, Angela <Angela.Barrett@TREASURY.GOV.AU>
Sent: Tuesday, 8 June 2021 4:53 PM
To: Rowbotham, Jacky <Jacky.Rowbotham@TREASURY.GOV.AU>; s 22 <[REDACTED]> <[\[REDACTED\]@pmc.gov.au](mailto:[REDACTED]@pmc.gov.au)>
Subject: re: Question from PM&C registered charity and deductible gift [SEC=OFFICIAL]

OFFICIAL

Jacky

Can you please give s 22 (cc'd) a call in relation to some questions about a foundation that is applying to be registered as a charity.

s 22 raised these with me when we were discussing an unrelated matter and I said I would connect him with the right contact.

s 22 Senior Adviser
Government Division | Department of the Prime Minister and Cabinet
s 22

Regards

Angela

Dr Angela Barrett
Assistant Secretary Executive Coordination and Governance
Corporate and Foreign Investment Group
The Treasury, Langton Crescent, Parkes ACT 2600
Ph: +61 2 6263 4745 | M: s 22 | Email: angela.barrett@treasury.gov.au
www.treasury.gov.au
Follow us: [Twitter](#) | [LinkedIn](#) | [Facebook](#)

The Treasury acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, water and community. We pay our respects to them and their cultures and to elders both past and present.

OFFICIAL

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TREASURY MINISTERIAL SUBMISSION

15 December 2021

PDR No. MS21-002993

Assistant Treasurer, Minister for Housing, Minister for Homelessness, Social and Community
Housing
cc: Treasurer

**2021-22 MYEFO DEDUCTIBLE GIFT RECIPIENT (DGR) SPECIFIC LISTINGS -
LETTERS TO APPLICANTS**

TIMING: By 17 December 2021 to ensure letters can be sent shortly after the release of MYEFO.

Recommendation

- That you **sign** the attached letters to specific listing applicants communicating the outcomes of the Government’s decisions in the 2021-22 MYEFO, to be sent soon *after* the 2021-22 MYEFO is expected to be announced on 16 December 2021 (Attachment A).

Signed/Not Signed

Signature:/...../2022

KEY POINTS



- The Government has also agreed to specifically list the following entities as DGRs for gifts made after 30 June 2021:
 - The Australian Future Leaders Foundation Limited;



- Treasury has drafted letters to advise the entities of the successful outcomes of their applications, and that legislation will be introduced to Parliament as soon as practicable to give effect to this decision (see Attachment A).



Contact Officer: s 22
Ext: 02 s 22

s 22
A/g Director, Not-for-profit Unit
Not-for-profits and Tax Administration Branch
Ext: s 22

~~PROTECTED~~

ATTACHMENT A – LETTERS TO APPLICANTS

~~PROTECTED~~



THE HON MICHAEL SUKKAR MP
Assistant Treasurer
Minister for Housing
Minister for Homelessness, Social and Community Housing

Ref: MS21-002993

Mr Chris Hartley
Executive Director
The Australian Future Leaders Foundation Limited
Level 35, Tower 2
200 Barangaroo Ave
SYDNEY NSW 2000

Dear Mr Hartley

Thank you for your application seeking to specifically list The Australian Future Leaders Foundation Limited in the income tax law as a deductible gift recipient (DGR).

I am pleased to advise that the Government has agreed to specifically list The Australian Future Leaders Foundation Limited as a DGR with the special condition that the gift must be made after 30 June 2021.

As you may be aware, listing as a DGR by name involves a change in the tax law, specifically an amendment to Division 30 of the *Income Tax Assessment Act 1997*. Therefore, the deductibility of donations to The Australian Future Leaders Foundation Limited is subject to the amending legislation being passed by Parliament.

The Government will introduce legislation as soon as practicable to give effect to its decision once the Australian Taxation Office (ATO) has advised that the public fund requirements have been met. The ATO will be in contact to assist The Australian Future Leaders Foundation Limited with the public fund requirements for this specific listing.

Yours sincerely

The Hon Michael Sukkar MP

LEGISLATION PROGRAM

Headline Statement

- The Treasury portfolio accounts for just under a quarter of all current Commonwealth laws, and a similar proportion of new bills introduced in Parliament are developed by Treasury.

s 22

Contact Officer:

Name: Simon Writer
Division: Law Division
Telephone: 02 6263 2213/0427 745 875
Last updated: 9/09/2022 10:48:00 AM



Major items introduced in the 46th Parliament

- The major items of legislation introduced in the 46th Parliament include:

2022	s 22

	s 22
	<p>A package of Bills which:</p> <p>s 22</p> <p>– specifically list the following organisations as deductible gift recipients: s 22</p>

s 22

the Australian Future Leaders Foundation
Limited, s 22

s 22

s 22

~~PROTECTED~~

TREASURY MINISTERIAL SUBMISSION

25 March 2022

PDR No. MS22-000605

Treasurer

TREASURY LAWS AMENDMENT (LOWERING HOUSEHOLD COSTS AND OTHER MEASURES) BILL 2022, EXCISE TARIFF AMENDMENT (COST OF LIVING SUPPORT) BILL 2022 AND CUSTOMS TARIFF AMENDMENT (COST OF LIVING SUPPORT) BILL 2022

Timing: URGENT – by 6:00pm on Friday, 25 March 2022 to meet the Legislation Approval Process and printing timeframes for introduction on Budget night.

Recommendation

- That you **approve** the text of the Treasury Laws Amendment (Lowering Household Costs and Other Measures) Bill 2022 (Attachment A), s 22
 [Redacted]
 [Redacted]
 [Redacted]
 [Redacted]

s 22

Signed/Not Signed

Signature:/...../2022

KEY POINTS

- The Treasury Laws Amendment (Lowering Household Costs and Other Measures) Bill 2022 (the Bill) comprises the following measures:

s 22

- Schedule 3 – Deductible gift recipients—new specific recipients;

s 22

~~PROTECTED~~



- Prior to introduction of the Bills into Parliament, all approvals must be in place as outlined in the table below.

Approval Type	Status	Comments
Initial Policy Approval	Schedule 1 to the Bill: In place s 22	s 34(3)
	Schedule 3 to the Bill: In place	s 34(3)
	s 22	

Simon Writer

First Assistant Secretary and Chief Counsel

Law Division

Ext: 2213

Contact Officer: s 22

Ext: s 22

Consultation: Individuals and Indirect Tax Division, Market Conduct Division, Department of Health, Department of Social Services, Department of Veterans' Affairs, Department of Home Affairs, Australian Border Force, Department of Agriculture, Water and the Environment, Australian Taxation Office, Australian Securities and Investments Commission, Legislative and Governance Forum on Corporations, Office of Parliamentary Counsel, Department of the Prime Minister and Cabinet, Office of Best Practice Regulation.

ADDITIONAL INFORMATION

Treasury Laws Amendment (Lowering Household Costs and Other Measures) Bill 2022, Excise Tariff Amendment (Cost of Living support) Bill 2022 and Customs Tariff Amendment (Cost of Living support) Bill 2022

Case Manager
Chris Leggett x3357

Schedule	Law Contact	Policy Contact
s 22		
Schedule 3 – Deductible gift recipients—new specific recipients	s 22	
s 22		

Related Ministerial Submissions

s 22

Schedule 3: MS20-001185; MS21-001271; MS21-002495

s 22

Overview of the Bills

s 22

s 22



Schedule 3: amends the *Income Tax Assessment Act 1997* to include s 22 [redacted]
 [redacted]
 [redacted]
 [redacted]
 [redacted]
 [redacted] The Australian Future Leaders Foundation Limited, s 22 [redacted]
 [redacted] will also be
 listed as DGRs from 1 July 2021.

s 22



These Bills were drafted by the Office of Parliamentary Counsel.

Regulatory Impacts

Schedules s 22 3, s 22 [redacted] The Office of Best Practice Regulation (OBPR) has been consulted and a regulation impact statement is not required (OBPR ID#22-01593, OBPR ID#22-10421, OBPR ID#14181, OBPR ID#22-02043 and OBPR22-02039 respectively). These measures have no impact on compliance costs.

s 22



Additional Documents

The additional Parliamentary documents for each of the Bills will be provided to your Office separately and are listed below:

- Statement of Reasons to enable introduction and passage in the same sitting;
- Backbencher's Brief;
- Consultation Summary;
- Joint Party Room Submission;
- Press Release;
- Prime Minister's Office Brief;
- Questions and Answers;
- Speaking Notes;
- Second Reading Speeches; and
- Summing-up Speeches (both for the House of Representatives and the Senate).

Minor formatting and editorial changes to the Bills and Explanatory Memorandum may be made to the versions attached prior to the documents being sent to the printer.

2019-2020-2021-2022

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TREASURY LAWS AMENDMENT (LOWERING HOUSEHOLD COSTS AND
OTHER MEASURES) BILL 2022
EXCISE TARIFF AMENDMENT (COST OF LIVING SUPPORT) BILL 2022
CUSTOMS TARIFF AMENDMENT (COST OF LIVING SUPPORT) BILL 2022

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer, the Hon. Josh Frydenberg MP)

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Chapter 3: Deductible gift recipients—new specific recipients

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Outline of chapter

3.1 Schedule 3 to the main Bill amends the ITAA 1997 to allow the following entities to be deductible gift recipients under the income tax law:

s 22

- The Australian Future Leaders Foundation Limited;

s 22

Context of amendments

3.2 The income tax law allows income tax deductions for taxpayers who make gifts of \$2 or more to a deductible gift recipient. Deductible gift recipients are entities that fall within one of the general categories set out in Division 30 of

the ITAA 1997 or are specifically listed by name in that Division. Legislative references in this Chapter are to the ITAA 1997 unless otherwise specified.

- 3.3 Deductible gift recipient status helps eligible organisations attract public financial support for their activities.

s 22

- 3.7 The Australian Future Leaders Foundation Limited (ABN 28 649 403 654) is a charity committed to advancing education, with a focus on building the skills, experience and capability of Australia's future leaders.

s 22

Summary of new law

- 3.10 Schedule 3 to the main Bill amends the ITAA 1997 to allow the following entities to be deductible gift recipients under the income tax law:

s 22

- The Australian Future Leaders Foundation Limited;

s 22

Detailed explanation of new law

s 22

- 3.14 Taxpayers may claim an income tax deduction for gifts made to The Australian Future Leaders Foundation Limited (ABN 28 649 403 654) provided the gift complies with the existing requirements of the income tax law. This amendment ensures that The Australian Future Leaders Foundation Limited receives appropriate support through the Commonwealth tax system.
[Schedule 3, item 1, table item 2.2.54 in the table in section 30-25(2)]

s 22

s 22

Consequential amendments

3.17 Schedule 3 also amends the index for Division 30 of the ITAA 1997 to reflect the new listings.

[Schedule 3, items 4 to 9, table items 21AA, 52BA, 68A, 84A, 94AAA and 103AA in the table in section 30-315]

Commencement, application, and transitional provisions

Commencement

3.18 The amendments commence on the first day of the quarter following Royal Assent.

[Clause 2]

Application

s 22

- The Australian Future Leaders Foundation Limited;

s 22

Chapter 10: Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Treasury Laws Amendment (Lowering Household Costs and Other Measures) Bill 2022

Excise Tariff Amendment (Cost of Living Support) Bill 2022

Customs Tariff Amendment (Cost of Living Support) Bill 2022

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s 22

Schedule 3 – Deductible gift recipients—new specific recipients

Overview

10.12 Schedule 3 to the main Bill amends the ITAA 1997 to allow the following entities to be deductible gift recipients under the income tax law:

s 22

- The Australian Future Leaders Foundation Limited;

s 22

Human rights implications

10.13 Schedule 3 to the main Bill does not engage any of the applicable rights or freedoms.

Conclusion

10.14 Schedule 3 to the main Bill is compatible with human rights as it does not raise any human rights issues.

s 22

Question 1:

Senator AYRES: One of Mr Hartley's other charities, the Gurkha Welfare Fund Australia Limited, was delisted for failing to lodge reports to the charity regulator. Did your due diligence process pick that up?

Mr Reid: I'm aware of that.

Senator AYRES: The entity was listed in MYEFO—I think you were referring to this earlier, Minister—in a small update of specifically listed deductible gift recipients, and its status was legislated just last week. Can you tell me whether the Prime Minister, his office or the department was involved in any discussions about DGR status for the foundation?

Mr Reid: PM&C was involved in discussions about the status.

Senator AYRES: And deductible gift recipient status was backdated to 1 July 2021—is that right?

Mr Reid: I'd have to take that on notice, I don't have that information in front of me.

Senator AYRES: Why would that have been the case?

Mr Reid: Senator, I'll have to take that on notice.

Draft response:

The Australian Future Leaders Foundation Limited was provided with Deductible Gift Recipient (DGR) status from 1 July 2021.

Where a decision is taken to specifically list an organisation as a DGR, listing will usually be backdated to the beginning of the relevant financial year so that all donations to the organisation in that financial year are deductible.

Question 2:

Senator AYRES: Who made the request for DGR status? Was it the department or the Governor-General's office? How was that advanced?

Mr Reid: The Department of the Treasury manages them. I'd have to take on notice the process—

Senator AYRES: Do you fill in a form? What is there? How does it—

Mr Reid: There's a process.

Senator AYRES: I'd like to know when the process began and who advanced it. Are you able to come back to us later in the day?

Mr Reid: I'll do my best, Senator.

Draft response:

The Executive Director of the Australian Future Leaders Foundation Limited requested DGR specific listing by writing to the Treasurer on 27 April 2021. This correspondence was forwarded to Treasury for consideration. Treasury followed its usual process in considering the application. The proposal for DGR specific listing of The Australian Future Leaders Foundation Limited was considered through the MYEFO process and subsequently announced on 16 December 2021 in the 2021-22 MYEFO.
