12 July 2023

Personal and Indirect Tax and Charities Division
Treasury
Langton Cres
Parkes ACT 2600

Submission on DGR status for Community Foundations

Community Foundations form a vital part of the philanthropic sector in Australia, and embody a unique set of characteristics:

- CFs' sole focus is on providing benefits to their local communities.
- CFs are community-based organisations managed by local people.
- Unlike "fundraise and spend" charities, CFs generally invest a corpus of funds in perpetuity. The earnings on these funds are used to provide ongoing benefits to the community year after year.

The Eyre Peninsula Community Foundation was established in 2004, and covers a very large area in South Australia – from Whyalla, 200 km south to Port Lincoln and 1,000 km west to the Western Australia border. Fewer than 60,000 people are spread out across that area, with just two towns having a population over 5,000. Eleven LGAs and part of SA's Unincorporated Areas are covered. All EPCF Board members are volunteers.

The EPCF Board is very concerned about two elements of the Exposure Draft of the *Treasury Laws Amendment (Measures for Consultation) Bill 2023*. These are discussed in detail below.

New Trust Requirement for Community Charity Funds

CFs are seeking to simplify their structures and the red tape, compliance and administrative costs and burdens and so urge the government not to *require* community foundations to have to establish a new trust or company.

As CFs will not be able to convert their public ancillary funds to be a community charity fund (CCF) nor distribute the funds to the corporate trustee (due to the wording in the PuAF trust deeds and PuAF Guidelines), most community foundations will want to be able to distribute the funds in their public ancillary funds to a CCF in an existing charitable trust and get rid of one of the entities in their existing complicated structures.

The current wording of the proposed Bill does not allow the CCF to sit within a trust with broader charitable purposes and we strongly request this is possible in the same way the proposed Bill allows a CCF to sit within a corporate entity. This will reduce red tape by not requiring new trusts to be established.

Limitations on Distributions from Community Charity Funds

The EPCF, like many CFs, has found that very few small local rural community groups have DGR 1 status. CFs generally operate PuAFs which can only distribute to DGR 1 entities. This means that we need to either use non-deductible funds, or pay a percentage to third-party DGR 1s (like FRRR) to pass the funds through. This has two unfortunate consequences:

Eyre Peninsula Community Foundation | ABN: 16 314 438 932 | 5 Adelaide Place, Port Lincoln | PO Box 1960, Port Lincoln SA 5606
E: admin@epcf.com.au | M: 0400 685 520 | www.epcf.com.au

- we tend to encourage non-deductible donations, which is self-defeating when you can't promote deductibility as a donor benefit;
- making arrangements for passing funds through an external DGR 1 involves unnecessary expense and takes considerable volunteer time and paperwork.

The Bill does not seem to allow distributions to non-DGRs for DGR purposes or activities and this is an essential part of the application to the government to facilitate the role of community philanthropy, particularly relevant in rural and regional areas, but applicable everywhere. Could the Bill and Explanatory memorandum be amended to make this clear?

Peter Knife
Director and Co-Treasurer
On behalf of the EPCF Board