

3 December 2024

Not-for-profits Unit  
Treasury  
Langton Crescent  
PARKES ACT 2600

Submission via email to: [charitiesconsultation@treasury.gov.au](mailto:charitiesconsultation@treasury.gov.au)

Dear Mr. Robjent,

***Taxation Administration (Community Charity) Guidelines 2024 Exposure Draft***

We are pleased to provide our feedback on the new Community Charity (CC) and its respective Guidelines.

This is a brief summary note given that we have enjoyed an extensive dialogue to date, including our meetings on 21 November and 2 December of this year. We'd like to thank you for the openness you have afforded Community Foundations Australia and our members, most especially the 28 named community foundations that were introduced in the legislation. We know that we have a base level of engagement and dialogue that will serve us well in the weeks and months ahead as we collaborate on the implementation phase.

You will also be in receipt of the submissions by our legal counsel, Herbert Smith Freehills, led by Alice Macdougall and Samantha Loff. **We look upon their brief as the most expansive summary of the issues identified and as a cogent articulation of the benefits of simplification in the next iteration of the Guidelines and Fact Sheet. We recommend their adoption.**

Recognising that some of the priorities in the HSF submission will be addressed in the immediate term and that subsequent improvements will be made over time. **This leads to our second recommendation, namely, that we agree to an annual review process in which we identify the mutual challenges and opportunities associated with the new Community Charity, and arrive at practical remedies.**

Furthermore, you'll be in receipt of the submission by our peak body, Philanthropy Australia, which offers an inclusive outline of recommendations, afforded to those not formally identified as community foundations. **We support the recommendations advanced by Philanthropy Australia** and will continue to collaborate with them in the implementation phase, including the requisite capacity building and upskilling that will go on at the community level. We see this as a period of unprecedented collaboration in philanthropy, no more so than at the community level.

It is worth noting the numerous submissions provided to Treasury from the field of community foundations. They are as diverse as Australia, offering to you a fulsome picture of the opportunities and challenges faced at the community level. To a person, we know that they share our view, namely, that this legislation is ground-breaking and is looked upon as a critical moment in philanthropy and in respect of the affirmation and agency which community foundations have been seeking for approximately two decades. We look upon the Guidelines as an extension of the legislation and hold a positive perspective about their structure.

As you work through the submissions from the field, you will see that they fall into three categories, some holding a view about the overall framework of the Guidelines, some drilling down on the specific implications for their community and their foundation, and others identifying continuing issues with the DGR system which are worth having on record, if not to be addressed in this Consultation.

Not included in the submissions is a voice for the many communities that will soon come forward for a new application to establish a Community Charity. **We wish to reinforce the message provided to you in person: that this process is well supported; accessible for communities throughout Australia; is provided through plain language; clearly outlines the requirements for a successful application (without duplication); and articulates a reasonable timeline in which applicants shall be moved through the process in early 2025.** We greatly appreciate the feedback that you have already given that supports this message and look forward to working with you on that basis. We will be an active communicator to communities and their leadership about this new opportunity that is the CC.

**The Guidelines and Factsheet afford an opportunity for Treasury to confirm three important features in the implementation and operation of a CC, as recommended:**

1. The Guidelines adopt a simple solution whereby the calculation of the Mandatory Annual Distribution to be made only on the net investment assets and to allow all expenses to be included in the amount of the MAD.
2. The Factsheet confirm that a CC can make a grant to another CC for a specific purpose or activity consistent with one or more of the principal purposes or activities of a DGR category but cannot make a grant to another CC for the CC's general purposes. This will enable other CC's to contribute to disaster relief in the affected CC's community through the CC.

Consider the following scenario:

A natural disaster in the Northern Rivers commences. The Northern Rivers Community Foundation establishes a relief and renewal program in the CC, with local donors. The network of Australian CCs also mobilises and begins to engage existing and new donors in their foundation network, and in turn grants funds to the CC of NRCF in support of the work on the ground in the Northern Rivers. This is a recurring scenario and ensures that the local, community-led approach of the CC is supported, and that local, community-led philanthropy in related CCs is also accessed for the crisis.

We would be pleased to provide an extensive list of such scenarios, within the confines of DGR1 category.

3. The Guidelines and Factsheet confirm that funds held in an account at an existing CC from an associated community without a CC may be transferred to a new CC from that community. This reflects another recurring scenario whereby a nearby community foundation supports the incubation of a new community foundation by establishing a community fund.

Consider the following incubation scenario:

In their CC, Fremantle Foundation holds an account of funds developed by residents of Peel, a community one hour to the south of Fremantle. Over the course of two years, Peel residents

actively develop their community foundation through community engagement, governance developing, strategic planning, capacity building of volunteers, partnership development, and the like. When ready, they develop their CC, make an application, and come into being. At that point, with the incubation concluded, Fremantle CC will transfer the account of funds to the new Peel CC.

This is a recurring scenario happening in 5 communities as I write, in Queensland (Noosa by Australian Communities Foundation), Western Australia (Peel by Fremantle), South Australia (Foundation SA by Australian Communities Foundation), Victoria (Southside by Australian Communities Foundation), and New South Wales (Paramatta by Sydney). This is an essential tool for development of the CC network, most especially for smaller towns and suburban initiatives.

We acknowledge that the host foundation that holds the account of funds must take responsibility for the MAD in all instances where a transfer is executed as part of the incubation process.

We want to thank Treasury for its commitment to progressing this important reform, and its thoughtful engagement with Community Foundations Australia and our network throughout the process. We look forward to continuing to work together at this important juncture for Australia's communities and their foundations.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'I-Bird'.

Ian Bird  
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