The Anglican Schools Corporation

Submission to the Productivity Commission Inquiry into Philanthropy

Introduction and Background

This submission is made on behalf of the Anglican Schools Corporation. Anglican Schools Corporation partners with local communities, the Australian Government and the NSW Government in offering affordable, quality education for NSW families from a wide variety of circumstances and socio-economic backgrounds.

Anglican Schools Corporation (ASC) has a history of service in Australian education, and currently owns and operates 18 schools across 19 campuses – involving some 17,900 students (including pre-school and early learning) and more than 2,400 permanent staff. ASC is a provider of faith-based schooling in the wider Sydney area, as well as in regional NSW centres such as Dubbo, Orange and Nowra. ASC partners with local communities, the Australian Government and the NSW Government in offering affordable, quality education for families from a wide variety of circumstances and socio-economic backgrounds.

ASC has experienced significant growth over the last 27 years – expanding from five to 19 campuses. ASC's current plans, based on long-term income and capital projections, see existing and new schools adding a further 5,000 students over the next decade. In particular, ASC seeks to grow its educational offering through the establishment of new schools, especially in the growth corridor of southwest Sydney.

ASC's educational offering for families complements that which is available via the government school system and Catholic systemic schools – providing choice, particularly in terms of the values and aspirations families may hold for their children being more closely reflected in those espoused by ASC's schools.

As part of its operating approach, ASC seeks to moderate school fees so that they remain accessible for schools' local communities. In this regard, ASC is grateful to government for its continuing financial assistance by way of general recurrent funding. It should also be noted that ASC receives no financial support from the Anglican Church Diocese of Sydney (Diocese), nor does ASC provide any financial support to the Diocese.

ASC is:

- an incorporated body that was created under the powers given to the Synod of the Anglican Church Diocese of Sydney by an act of Parliament of the State of New South Wales and is a legal entity in its own right. It has perpetual succession and a common seal, and an Australian Business Number (ABN) 63 544 529 806
- listed in the Australian Business Register, and, as a not-for-profit entity, is registered with the Australian Charities and Not-for-profits Commission with the charitable purposes of 'advancing education' and 'advancing religion'

- a NSW Educational Standards Authority (NESA) recognised proprietor of separate non-government schools. Each of the schools is owned and operated by the legal entity, Anglican Schools Corporation (and none of the Corporation's schools exists as a separate legal entity)
- an approved funding system in respect of Australian Government funding-related matters, and also in respect of NSW Government per capita funding, as described in the *Australian Education Act 2013* (Cwlth)
- listed on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) as a provider of registered courses for overseas students
- the owner and operator of two early learning centres.

We welcome the opportunity to make a submission to the Productivity Commission Inquiry into Philanthropy.

The aim of the Productivity Commission "Future Foundations for Giving" report to double philanthropic giving by 2030 is admirable on the surface, however, the recommendations within the report are likely to impede overall giving, rather than encourage philanthropy, particularly in the non-government schools sector.

We support the recommendations that would allow for the broadening of the deductible gift recipient (DGR) status for charities, however, the recommendation to withdraw DGR status for school building funds (SBFs) will have a significant impact on the future growth of independent schools and community learning facilities. The Commission seeks to address what it terms is the lack of a 'coherent policy rationale for why certain entities are eligible for DGR status and others miss out.'[1] If there is a rationale underpinning the Report's recommendations it is a preferencing of secularism and a holistic recalibration away from faith-based philanthropy.

The recommendation to exclude primary and secondary education from DGR status has a disproportionate impact upon faith-based schooling in this nation. The Independent Schools Australia has compiled the following data on 2022 student enrolment in non-government schools.[2]

	Students	%
Catholic (Systemic)	747,415	52.05%
Independent – religious	669,737	46.64%
Independent - non-religious	18,901	1.32%
	1,436,053	100.00%

That is, 98.68% of students in non-government schools were in faith-based institutions. The failure to extend DGR status to 'advancing religion' has a disproportionate impact on faith-based schooling.

[1] Commonwealth of Australia Productivity Commission, *Future Foundation for Giving,* (November 2023) 39 ('Draft Report').
[2] https://isa.edu.au/wp-content/uploads/2023/09/Enrolment-Trends-and-Projections-2023-Edition.pdf, page 10 and https://isa.edu.au/our-sector/about-independent-schools/characteristics-of-independent-schools

Almost half of independent schools charge fees of $5,000 per annum or less. Only 10 per cent of independent schools charge fees above $20,000 per annum.[3] Growth in the independent sector is greatest in low-fee schools.

School building funds are critical in enabling schools to undertake development of a capital building program. Through fees and donations, Independent school communities nationally provide 82 per cent of capital funding for school buildings, grounds and equipment. In many Independent schools, capital funding is 100 per cent sourced from parents and school communities. Independent schools fund the majority of their capital costs (building and equipment) through three sources – external (borrowed) finance, DGR gifts and any retained earnings. While there is access to small amounts of capital funding assistance provided by the Commonwealth and state/territory governments through the Block Grant Authorities, the majority of the capital funding burden falls directly upon the school to source. As a broad principle, Independent schools should be able to access DGR status and therefore tax deductibility for voluntary donations to support specific activities in a school setting. The ability to offer tax deductibility for donations greatly assists schools in sourcing support that may not be otherwise available and enhances their capacity to offer additional educational resources.[4]

The report argues that the rationale for school building funds accessing DGR status is weak[5] and draws heavily on the work if Anne O'Connell (Is the tax regime for charities and not-for-profit entities "fit for purpose"?)[6], however, the perspective provided by O'Connell relies on media hype targeting a small number of elite independent schools and there is no demonstration that these schools actually utilised SBFs to undertake these projects. This small number of projects is not representative of the projects supported by SBFs. The majority of independent schools are lower fee schools serving communities with lower socio-economic status, where parents are encouraged to contribute to SBFs so that the school is able to progress with essential infrastructure to support the growth of schools. While these schools may qualify for a small number of government grants to support capital works projects, the grants that are awarded to a limited number of projects only represent a fraction of the total project cost and most projects need to be supported by a debt facility. In the case of the Anglican Schools Corporation, grants sometimes are lower than the required local government development levies that must be paid prior to commencing a project. To remove the DGR status of SBFs would mean that lower fee schools in high growth areas will have to manage a greater level of debt which will then limit future development.

The Productivity Commission argue that since SBFs first became eligible for DGR status in 1954, there was very limited government support for non-government schools and that since that time government support for non-government schools has expanded considerably.[7] The per-capita funding support that non-government schools receive from governments cannot be applied to capital works projects (with the exception of schools that have zero capacity to contribute) but must directly support the day to day

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[3] https://isa.edu.au/our-sector/about-independent-schools/myth-busting/
[4] Independent Schools Australia, *ISA Submission – Productivity Commission Review of Philanthropy,* (May, 2023) 3.
[5] Commonwealth of Australia Productivity Commission, *Future Foundation for Giving,* (November 2023) 189 ('Draft Report').
[6] O'Connell, A 2023, 'Is the tax regime for charities and not-for-profit entities "fit for purpose"?', *Australian Tax Forum*, vol. 38, no. 2, pp. 267–304.
[7] Commonwealth of Australia Productivity Commission, *Future Foundation for Giving,* (November 2023) 189 ('Draft Report').

operations. SBFs are critical to support capital projects which are not supported by per-capita government funding provided to non-government schools.

The argument that primary and secondary education activities should not stay within the scope of DGR status, particularly where students are charged fees[8], is not consistent with the view that formal higher education and research activities would remain within the scope of the DGR system, given that all students of formal higher education are charged for the courses that they undertake.

The Draft Report further suggests that donations to school building funds are less likely to generate broader community-wide benefits and that tax-deductible donations could be directly converted into lower fees. The report does not provide any evidence of such assertions and, indeed if there was any activity of this nature, it could be managed with clearer requirements around the administration of school building funds. The reality is that independent schools frequently provide access to their facilities to broader community groups, particularly where these activities do not impinge on the daily educational programs of the school.

While the Draft Report acknowledgment of “Independent Schools Australia (sub. 250, p. 3) estimated that across independent schools, fees and donations make up 82% of funding for capital works”[9], it should also be acknowledged that a significant proportion of the funding of capital works is supported by borrowing, particularly by lower fee independent schools in growth areas.

The draft report also referenced the Australian Government’s capital grants program for non-government schools and the allocation of $194million under the program in 2022. Given that there are 1209 independent schools in Australia and that these funds are further shared with Catholic systemic schools across Australia, the overall contribution to individual programs represents a very small proportion of capital building programs required to support the increasing capacity needs for independent schools.

School building funds are critical in enabling schools to undertake development of a capital building program that will facilitate growth. Through fees and donations, independent school communities nationally provide 82 per cent of capital funding for school buildings, grounds and equipment. In many schools, capital funding is 100 per cent sourced from parents and school communities. Independent schools fund the majority of their capital costs (building and equipment) through three sources – external (borrowed) finance, DGR gifts and any retained earnings. While there is access to small amounts of capital funding assistance provided by the Commonwealth and state/territory governments through the Block Grant Authorities, the majority of the capital funding burden falls directly upon the school to source.[10]

The growth of independent schools is greatest in low-fee schools and in areas of significant population growth. In the case of Anglican Schools Corporation schools, these are schools on the suburban fringes where there is significant enrolment growth requiring additional buildings and facilities to accommodate

[8] Commonwealth of Australia Productivity Commission, *Future Foundation for Giving,* (November 2023) 188 (‘Draft Report’).
[9] Commonwealth of Australia Productivity Commission, *Future Foundation for Giving,* (November 2023) 189 (‘Draft Report’).
[10] https://isa.edu.au/wp-content/uploads/2023/06/ISA-submission-PC-Review-of-Philanthropy.pdf page 3

students. The establishment of these facilities requires significant borrowing which places a long term financial burden on a new school. The removal of DGR status for School Building Funds would add further to this long term financial burden on these schools, and would also compromise the capacity of these schools to access borrowing for future projects.

This proposal, if effected, will have a profound impact on low-fee faith-based schools whose students cost the government far less to educate than if those same students were in a local public school. The ISA Report states: 'Over the next 10 years, ISA projects that Independent schools could enrol an additional 195,000 students. Based on an average school size of 570, around 342 additional Independent schools would be required to accommodate the increase in students.'[11] In recent years, Australia's growing multiculturalism has driven demand for Muslim, Hindu, Buddhist, Ba'hai, and Jewish education. Withdrawing DGR status for school building funds would disproportionately harm adherents of minority faiths.

The Commission's recommendation sits in opposition to the demonstrable need for the construction of additional buildings in the independent schooling sector. The ISA Report states that the '[i]ndependent sector grew by 3.2% from 2021, the sector's strongest growth in more than a decade, despite student population growth of only 0.3% and declining enrolments in government schools (-0.7%).' This represents a long-running trend: 'The Independent sector has increased its enrolment share every year for the past nine consecutive years, climbing steadily to a high of 17.1% in 2022. Over the past 20 years, Independent sector growth has consistently exceeded student population growth.' The ISA Report concludes: 'growth in Independent schools is across all fee levels, with the strongest growth in low fee (below $5,000 per annum) Independent schools'. The Productivity Commission appears to be unaware of these trends. The Independent sector is experiencing extraordinary growth. Coupled with the fact that the Catholic sector and the Independent sector care for 18% and 17% of Australia's students respectively the Productivity Commission's recommendation is unsupportable.

Governments provide all the capital funding (e.g., buildings and facilities) for government schools, but only 14% of the capital needs of faith-based schools.[12] DGR status is one means by which the government provides indirect support for the capital needs of faith-based schools. If the Federal government were to revoke DGR status and thereby remove this support, then it will have to address the capital funding gap in other ways.

The Commission's recommendation to abolish the School Building Fund (SBF) DGR category also rests upon its assertion that SBFs might fail to satisfy the third of its criterion for assessing DGR eligibility.[13] The prospect that a parent at a school might give a donation in the hope that this would reduce their own fees at some point in time into the future is not supported by logic. If there is indeed evidence of non-compliance with this rule by independent schools, this can be addressed through increased guidance or through use of the existing powers exercisable by the Australian Taxation Office. There is no evidence that schools are offering a reduction in private fees equal to an amount of a donation. The

[11] ISA Report (n 34).
[12] https://isa.edu.au/our-sector/funding/capital-funding/
[13] Draft Report 188.

potential for minor infraction is no basis from which to assert the entire revocation of the SBF regime supporting private schools.

The Commission also asserts that the spread of donations to SBFs ‘suggests that many schools servicing communities with greater socio-economic disadvantage are less likely to benefit from DGR endorsement for school building funds.’[14] However, this does not accord with the practice maintained by Anglican Schools Corporation. Various SBFs operated within the Anglican Schools Corporation structure are administered for the benefit of schools in lower income areas.

We commend the Commission for its recommendations that seek to improve coordination and information sharing among regulators (in particular see recommendation 7.4). We also note that after its own extensive consultation process the ACNC Review made the following recommendations:

> To reduce red tape for the sector, the Commonwealth Government should mandate that departments and agencies are required to use the Charity Passport and must not seek information from registered entities that is already available through the Charity Passport.
>
> The Panel recommends that all responsibility for the incorporation and regulation of companies which are registered entities, be transferred from ASIC to the ACNC, except for criminal offences. This will significantly reduce the level of red tape that is currently imposed on entities that are on both registers.[15]

The Commission should affirm these recommendations.

We urge the Productivity Commission to revert to position as articulated in 2010, that “gift deductibility should be widened to include all tax endorsed charities in the interests of equity and simplicity.” This is far more likely to achieve the stated aim of doubling philanthropy by 2030.

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[14] Ibid 190.
[15] ACNC Review 11.