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Philanthropy inquiry
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

9 February 2024

Dear Commissioners

We make this submission on behalf of the Trustees of Dominican Education Australia ("DEA"), a Public Juridic Person under the Canon Law of the Roman Catholic Church which operates in civil law as a company limited by guarantee under the Corporations Act, 2001 and which is also a charity registered with the Australian Charities and Not-for-Profits Commission ("ACNC").

Our submission is made in objection to the specific recommendation, made in the Productivity Commission's draft report, *Future Foundations for Giving*, to remove deductible gift recipient ("DGR") status to school building funds.

Introduction

DEA is responsible for the support and overarching stewardship of six individually incorporated non-government schools, located in New South Wales (2), Victoria (1) and South Australia (3). Over 5,000 primary and secondary school students are enrolled at those six schools, one of which caters specifically for primary and secondary students with moderate to severe disabilities. One of those schools has, in its own right, DGR status and each of the other five has a registered school building fund with DGR status.

Objections to the recommendation to remove DGR status from school building funds

In this section of our submission, we set out the basis of our objections to certain statements or contentions contained in the draft report supporting this recommendation.

Flawed assumptions

In our opinion, the recommendations of the draft report are based on flawed reasoning and/or incorrect and/or outdated assumptions.

One example is cited below:

"*School building funds were given DGR status in 1954 when government support for non-government schools was very limited. Since then, government support for non-government schools has expanded considerably". (p15)*

At its most basic level, the report confuses the expansion of recurrent Government funding - which all not-for-profit schools receive to help fund their annual operating costs - with capital grants, which are available only to a small number of needy non-government schools.

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As an illustration, the NSW Government will provide less than $20 million in capital grants in this current financial year to be shared between the entire Catholic and Independent sectors, which comprise more than a third of that state's schools.

A further example of flawed reasoning can be cited at p18 of the draft report:

"The potential for a donor to be able to convert a tax-deductible donation into a private benefit is especially apparent for primary and secondary education, particularly where students are charged fees. Potential donors are most likely to be people directly involved with the school and benefit directly from donations, such as students, their parents or alumni."

Even on its most benign interpretation, this is an invalid premise which dismisses the benefits provided by donors to future generations of students, not just those attending the school in the immediate years following the construction of the building or facility.

Also, there are many schools which seek donations to building funds from parents annually, well before a specific development has been identified, planned, and approved. In most cases, a new building is completed well after their child has left the school. This directly contradicts the contention that the donor receives some ancillary benefit from their donation.

The economic facts underlying the functioning of schools are that the costs of ongoing replacement of buildings and other facilities are always factored into annual operating costs via depreciation or amortisation of capital expenditure and, if anything, the only benefit that might be seen to be derived is that the cost of funding the cash requirements for ongoing building programs is lessened; but not only for those families paying fees for students attending at the time the donation is made, but for those families of students attending the school over the life of the facility (generally in excess of twenty to thirty years).

Dismissive of existing compliance requirements within the DGR legislation

On a less benign interpretation of the assertion made at p18 of the draft report, the Commission (possibly inadvertently) appears to infer that there exists a widespread practice of providing some sort of "offset" between tuition fees charged and the amount of any donation received from a student's family. This claim is not supported by any evidence or data - and it is highly unlikely that such a benefit would accrue to donors. Obtaining a benefit from a donation is expressly excluded in the Australian Taxation Office rules for Tax Deductible Gift Recipient Funds; if it did occur, it would be grounds to deregister the DGR fund through existing compliance mechanisms.

Once again, the facts surrounding the operations of school building funds are that it is not only the families of current students who contribute to school building funds but alumni, community groups, philanthropic donors and others through a range of fundraising activities. It is therefore extremely unlikely that a community member or a school alumnus – who may have left the school many years ago – could benefit directly from these donations.

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Concluding comments

Like most non-government schools, our six schools are not-for-profit entities, registered with the ACNC with the charitable purpose of 'advancing education'. This recognition of the importance and public benefit of non-government schools in educating Australia's young people underpins the DGR status of the school building fund at our schools and others around Australia.

Each of our schools use their school building funds to finance its capital works projects, which are essential to meeting demand from families for places and ensuring educational facilities are upgraded.

To date, the buildings and resources needed to accommodate the growth of our schools like almost all non-government schools – has been substantially funded by families, alumni and other donors through our school building fund.

The removal of DGR status from school building funds would, have a significant negative impact on our school community and on thousands of others around Australia. It would seriously jeopardise our schools' ability to raise the funds necessary to provide and improve our teaching and learning infrastructure.

On behalf of our schools' students, families and the wider school community we ask that the Productivity Commission withdraw this recommendation from its final report.

Yours faithfully

E M Young
Chairperson

P M Reid
Director/Treasurer