

Dear Productivity Commission,

Thank you for the opportunity to provide a response to the draft report, “Future Foundations for Giving”. The Federal Government is to be commended for asking the Productivity Commission to examine opportunities and obstacles to doubling philanthropic giving by 2030.

### **Writing in my personal capacity**

I am writing in my personal capacity, with a background as a current Chair of a Christian outdoor education organisation, a current NED of a Christian media company, and as a past NED and Chair of an Anglican school. These organisations have a range of activities and legal entities, some of which qualify for deductible gifts and some of which do not.

### **Aspects of the report that I endorse**

I am writing to endorse the view expressed in the draft report that the system can be made simpler, fairer and more consistent. The ideas around enhancing the data collection within the ACNC have merit and can be seen to improve the transparency of the system.

In particular, the extension of the system to include other charities that are currently not able to be DGR eligible is an excellent measure. It seems to me that, in a liberal democracy, the Government should be willing to allow taxpayer co-funding (which is essentially what it means to have a tax deduction) based on where citizens self-select to contribute and financially support a charity performing a social benefit. If people support an activity, then we can reasonably assume that it is worth supporting. And if people don't support an activity, then maybe it is right that it doesn't receive other funding from the taxpayer. Expanding the system to allow more charities to participate is a very positive step in recognising the breadth of social topics that Australians are willing to financially support.

### **Concern 1: school building funds should not be removed from the DGR system**

However, I have concerns at the view expressed that there is a substantial risk of converting a tax-deductible donation into a private benefit through school building funds. And therefore, I don't agree with the conclusion and the outcome that has been reached to remove this charitable giving from the DGR system.

With respect, I believe the private benefit argument is overstated and overly simplistic. School facilities generally have a long lifespan for both their development, building and usage and a collective benefit, which, when combined with the dollar figures involved, substantially dilutes any private benefit, reducing it to being immaterial and in my view an overreach in this analysis.

Most school building projects are building infrastructure that is expected to last decades and over these timespans, the benefit will accrue to many different individuals and that benefit can't meaningfully be measured in an individual and personal way.

Effectively a donation to the school building fund is a recognition that the school community (of whom parents are only one element) want the infrastructure of the school to be maintained, developed and improved over a period of time for the collective benefit of all the students who will use the total footprint of facilities over the course of the life of those structures. In addition, funds are also often provided by alumnae and other supporters of the institution who do not anticipate any personal benefit from their donation.

The argument that there is a risk of the DGR system being misused by taxpayers to offset a personal benefit through a reduction of personal taxable income appears to be based on an assumption that facilities are paid for by a very few who do so to secure a specific advantage for their family. There is no data provided to back this assumption and for it

to be made in such a way that it leads to these existing charities being removed from the system, I would have anticipated a stronger justification from real-world data.

I would also like to address the concern raised in the report that these deductible donations are not in the wider community interest.

It strikes me that there is a substantive risk that the removal of tax deductibility status would result in the collapse of giving to the school building funds with a resultant eventual impost onto government funding sources.

As has been intimated in the report, removal of tax deductibility from school building funds is likely to lead to fee increases as schools look to continue their infrastructure development without the benefit of the deductible building fund. I have taken this assumption because it is not clear to me that other individuals (e.g. alumnae) will continue to provide standalone discretionary capital to a school building fund without the credibility and benefit of DGR endorsement. Whether we like it or not, having DGR status provides an implicit 'ring of confidence' that the recipient charity is recognised and is doing good work. Without this endorsement, it is hard to see people continuing to donate in the same way.

The downside risk for the Government of a situation where there are escalating fees because of the change in funding around the core infrastructure is that there will be a negative cascade of enrolments moving away from independent schools, with a resultant increased pressure on the public sector and therefore an increase in taxpayer funded costs.

At least with the current system, where government grants are not being accessed, the infrastructure development of the independent schools is substantially funded by the school community themselves without recourse to other public funding. A change in DGR treatment could see this private funding collapse with the need for government funding to be expanded.

I would encourage the Productivity Commission to re-evaluate this proposal and examine more carefully the existing nature of funding for school infrastructure and whether there are any inherent biases where specific individuals could have been shown to have consciously used a tax deductible gift for their personal advantage.

In the absence of this evidence, I would rather suggest that the collective contribution from many individuals towards the funding of their school infrastructure remains something which is reasonable to have taxpayer co-funding through the existing mechanism in the DGR system.

## **Concern 2: religious education should not be removed from the DGR system**

In addition to the concern I have raised above, I disagree with the proposal to remove "religious education" from the DGR system. The Report appears to make a number of observations about "religious education" and I will provide my observations on each in turn.

1) On page 188, the Report asserts that there is a likelihood of a close nexus between fees and donations, including for religious education. The comment that is made that this nexus would only be reasonable if the activity has "an explicit equity objective".

My primary concern with the Report at this point is that this nexus is asserted rather than proven by data. I would offer a counter-factual that the majority of donations for "religious education" are not for the immediate primary benefit of the donor (or their family) for the purpose of avoiding fees and the majority of donors are doing so because of their underlying beliefs and a desire to see religion better understood by a wider group of people. Unless the nexus can be shown to exist, I think it is inappropriate to use an unevidenced assertion to change the DGR status for "religious education" and I would encourage the Commission to seek further data before finalising this aspect of their thinking.

2) On page 189, the Report states that building funds are used by religious education providers because "of how the endorsement category is defined and has been interpreted in recent court decisions (ATO 2023b)."

The context of the statement in the Report and the ATO case referenced is DGR-eligible school building funds, so this point has already been covered in my earlier comments under the heading of "Concern 1".

3) On page 190, the Report states that “Religious education activities should also be specifically excluded to maintain consistency with the approach for the advancing religion subtype. Not doing so would risk creating an inconsistent approach to how activities related to the advancement of religion would be treated under the Commission’s proposed reforms and could cause integrity problems.” This sentiment is aligned with the statement in Figure 6 that charities that are likely to have DGR status withdrawn include those that “provide religious education in government schools.”

Whilst not specifically stated in the report as a draft recommendation, the proposal appears to be to remove “2.1.8 Public fund for religious instruction in government schools”, “2.1.9 Roman Catholic public fund for religious instruction in government schools”, and presumably “2.1.9A Public fund for ethics education in government schools”, from the types of DGR endorsements that are available and my comments are based on the assumption that this is what is intended by the wording of the draft Report.

I would propose that “religious education” is a general social and community benefit. Religion has been a natural part of human societies across the world for millennia and within the context of looking to build social capital and connectedness in Australian communities, religion plays a vital and important role.

In a liberal pluralist society, it is appropriate for the Government to maintain a neutral stance as regards religion by not being seen to ‘pick a winner’. It is appropriate, for example, that we do not have an official State religion. This line of thinking can be seen by the recent inclusion of support for ethics education in the types of funds available for DGR status.

It is also appropriate for the Government to facilitate the understanding of religion within the community and the current mechanism of co-funding the delivery of this religious education through allowing charities to act in this sector and be funded through alignment of a tax-deduction with individual donors appears to be a reasonable way to do this. The implication of the status quo is that provision of public religious education is reliant on the wider community being willing to individually participate in this activity, which they presumably will be doing in alignment with their personal beliefs. As beliefs across the population change, the funding is likely to change, which will then be seen in the delivery within schools. This avoids the Government ‘picking a winner’, but rather the delivery being funded in alignment with the wider beliefs of our population. Surely this is a good thing!

Not having any program of general public education regarding religion could be seen as a polemic attack by secularists against people of faith and so, without this existing mechanism and given the important role that religious belief plays in our pluralist society, the Federal Government would need to consider providing its own program of educating the citizenry on religion at alternative taxpayer expense and with the inherent danger of appearing to no longer have a neutral stance regarding religion.

On this matter, I would encourage the Commission to reconsider the social downside risk of continuing with the stated direction of the draft Report and come to an alternative conclusion that in a liberal pluralist society the existing DGR arrangements are reasonable and should be maintained in their current form.

## **Conclusion**

In conclusion, I would like to thank the Commission for their work on this topic and the opportunity to provide comments and urge the Commission to reconsider the rationale for removing school building funds and religious education from the DGR system with a result of retaining them as per the status quo.

Regards,

David Braga