



# Submission from the Association of Independent Schools of NSW

**Future Foundations for Giving**

**Productivity Commission**

**9 February 2024**

## **Submission from the Association of Independent Schools of New South Wales (AISNSW)**

This submission has been prepared by the Association of Independent Schools of NSW (AISNSW) and reflects the views of the diverse range of independent member schools.

We would be pleased to elaborate on any aspects of this submission as required.

For further enquiries or additional information relating to this submission, please contact AISNSW Office of the Chief Executive, [oce@aisnsw.edu.au](mailto:oce@aisnsw.edu.au)

# Contents

Contents.....	3
Introduction.....	4
Executive Summary.....	5
Key Points.....	6
Conclusion.....	9

## Introduction

**The Association of Independent Schools of New South Wales (AISNSW)** is the state peak body representing a sector of almost 520 Independent schools and campuses.

AISNSW welcomes this opportunity to provide feedback on the Productivity Commission's draft report, *Future Foundations for Giving*.

The NSW Independent school sector is vibrant and diverse, providing families with choice, fostering competition and improving standards in education.

The sector educates almost 237,000 students and accounts for 19% of NSW school enrolments.

Many Independent schools provide a religious or values-based education. Others promote a particular educational philosophy or educate specific cohorts of students such as those with disabilities (one in five Independent school students has a disability) or students at risk of disengaging from education.

Independent schools include:

- Schools of educational philosophies, such as Montessori and Rudolf Steiner schools
- Schools constituted under specific Acts of Parliament, such as Grammar schools
- Boarding schools, and schools that enrol significant numbers of international students
- Schools with religious beliefs, including Islamic, Buddhist, Jewish, Hari Krishna and Christian schools of various denominations such as Anglican, Catholic, Greek Orthodox, Lutheran, Presbyterian, Seventh-day Adventist and Uniting Church schools.
- Community schools, including those in Aboriginal communities
- Schools that specialise in meeting the needs of students at risk or with disabilities

The state's Independent schools are registered with the NSW Education Standards Authority (NESA). Most are established and governed independently on an individual school basis. Some Independent schools with common aims and educational philosophies are governed and administered as systems, like those within the Anglican Schools Corporation and Seventh-day Adventist systems.

Since 2000, Independent schools have enrolled 60% of all additional students in NSW - a remarkable achievement given the sector represents just 16% of the state's schools and campuses. Almost three quarters (70%) of NSW Independent schools serve low to medium socio-economic school communities and 37% of Independent schools are located outside of metropolitan Sydney.

## Executive Summary

The Productivity Commission's *Foundations for Future Giving* draft report highlights the importance of philanthropy to building social capital and connectedness in Australian communities.

These are values taught and exemplified in Australia's almost 3,000 non-government schools, however AISNSW believes the draft report's recommendation to remove tax deductible gift recipient (DGR) status from non-government school building, scholarship and library funds would undermine these aims.

DGR status is a vehicle that not only provides a mechanism for donations towards essential infrastructure and access to education; it is also a means to engage and nourish the school community while assisting in building facilities to further their aims. Independent schools teach and encourage giving, civic engagement and volunteerism.

AISNSW believes the draft recommendation is misconceived and that its rationale is flawed and not supported by evidence. More specifically, it:

1. Illustrates a lack of understanding of the broad socioeconomic and cultural diversity of non-government schools and their families,
2. Does not consider the impact that removing DGR status from non-government school building, scholarship and library funds would have on non-government schools' capacity to meet parent demand for classroom places in the future,
3. Misunderstands the type and level of government support provided to non-government schools,
4. Overstates the potential for private benefit to donors and fails to recognise the actual generational benefit provided, and
5. Falsely believes that prospective school building fund donors will redirect their donations to other charities.

# Key Points

## 1. Illustrates a lack of understanding of the broad socioeconomic and cultural diversity of non-government schools and their families

In NSW, Independent schools educate students from a wide range of socioeconomic and cultural family backgrounds.

The median fee collected in NSW Independent schools is less than \$5,500 per year and 40% of schools have fewer than 200 students.

One in six Independent school students (17%) are from families whose income is in Australia's lowest quartile. Disadvantage is more evident among families living further way from Sydney; 37% of all Independent schools are outside the Sydney metropolitan area.

One in five Independent schools were established solely for students with special needs. This includes students with a disability or students who are vulnerable and disengaged from mainstream education.

In NSW, the majority of enrolment growth for the past decade has occurred in low-fee Islamic, Anglican and general Christian schools in Sydney's growing western, southwestern and northwestern suburbs. Many of these schools were established during the past 40 years through the generous support of past parents who were able to provide tax deductible donations.

These schools, communities and future students would suffer disproportionately if DGR status were to be removed for school building and scholarship funds.

Independent schools are part of a broader geographic and social community fabric. Many schools make their facilities available for community use, particularly in smaller, regional and/or remote areas where local community facilities are limited.

The removal of DGR status would jeopardise the ability of schools to provide much-needed facilities in less advantaged communities.

## 2. Does not consider the impact that removing DGR status from non-government school building, scholarship and library funds would have on non-government schools' capacity to meet parent demand for classroom places in the future

State governments rely on non-government schools to provide the classroom places necessary for the States to meet their obligation to educate every child. The availability of DGR status for school building funds is a significant reason why non-government schools have been able to fulfil this responsibility.

In 2023, the Independent school sector and the Catholic school system jointly provided 37.1% of all student places in NSW, up from 30.5% in 2000. Both sectors are critical to the NSW Government's education strategy.

The importance and public benefit of non-government schools in educating Australia's young people has been recognised since 1954 by the provision of DGR status for school building funds and other

education-related matters. It has been the foundation of non-government schools ability to raise funds from parents, alumni and other donors for the delivery of the thousands of additional classroom places required by NSW families each year.

In the decade prior to the pandemic, total enrolments in NSW schools increased by an average of more than 13,000 students per year. This annual average is forecast to increase to 15,500 over the next decade.

The NSW Government alone will not be able to meet this demand if non-government schools do not at least maintain their market share. Many NSW government schools are already at or over-capacity; the government school system would be overwhelmed if it were forced to absorb more students due to non-government schools' inability to grow to maintain their share of enrolments going forward.

Removing DGR status from building funds would be a significant constraint on school communities' ability to raise the funds necessary to meet future growth. It would shift more of the financial burden of providing the necessary classroom places for children onto taxpayers, requiring government to fund accelerated school building programs at a higher cost than the current DGR-based system.

### **3. Misunderstands the type and level of government support provided to non-government schools**

The draft report's rationale for removing DGR status appears to be based on flawed assumptions about government support for non-government schools, when it says:

*There are also some charitable activities where the reasons for DGR status have lessened over time. School building funds – which are widely, but not exclusively, used by non-government schools – are a case in point. 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)*

The draft report confuses the expansion of recurrent Government funding - which all not-for-profit schools attract to help fund their annual operating costs - with capital grants, which are limited and available only to a small number of the neediest non-government schools each year (recurrent funding cannot be used for capital purposes except for certain types of non-mainstream schools).

Capital grants funding from state and federal governments is extremely low and difficult to forecast and rely upon from one Budget year to the next. For example:

- the NSW Government will provide approximately \$7 million in capital grants to the Independent school sector in the current financial year, down from \$20.3 million previously
- the Commonwealth provided \$25.9 million in 2023.

These funds are for the entire NSW Independent school sector.

For context, one new government primary school costs the NSW Government approximately \$60 million to construct. Furthermore, school construction costs have risen by approximately 20% in the past two years and borrowing costs have trebled since April 2022 to 7.5%. The cost of servicing a \$6 million loan has risen by \$300,000 per year – the salary of three teachers.

The limited capital grants from government are available only to schools able to demonstrate that the communities they serve have the least financial capacity to fund their own school infrastructure. Even if successful, grant monies only ever fund a portion of the development costs; the school community

must still raise the remainder. Without the encouragement of a potential tax deduction, this task is made more difficult.

Independent school parents and school communities in NSW raised approximately 90% of their capital income, or \$409 million, in 2021. Without DGR status, a substantial number of parents, particularly those in lower socioeconomic communities, would find it difficult to give.

#### **4. Overstates the potential for private benefit to donors and fails to recognise the actual generational benefit provided**

The report also states:

*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. (p18)*

This assumption is incorrect and is unsupported by any evidence or data. It also fails to recognise the existing regulatory framework that is designed to prevent such benefits. Furthermore, it also dismisses the benefits provided by donors to future generations of students.

Although the draft report suggests a potential connection between donations and school fees, capital works are funded and accounted for separately from recurrent operating costs, which are covered by fees. Therefore, deductible donations to a School Building Fund do not and would not decrease the fees that parents are required to pay.

Obtaining a personal benefit from a donation is also expressly excluded in the Australian Taxation Office rules for Tax Deductible Gift Recipient Funds; if it were to occur, it would be grounds to deregister the DGR fund through existing compliance mechanisms. Removing DGR status on this basis would be an over-reaction when other measures, such as strengthening the compliance and accountability framework, are available.

The report's concern for any '*potential*' private benefit also needs to be weighed up against the *actual* benefit of donations that have helped to deliver school infrastructure with a lifespan that extends for decades beyond the 13 years a child spends at school. Schools seek donations to building funds from parents annually – often before a specific development has been identified, planned, and approved. In most cases, a new building will be completed well after a donor's child has left the school.

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 earlier – could benefit directly from these donations.



## 5. Falsely believes prospective school building fund donors will redirect their donations to other charities

The draft report attempts to justify its recommendation to remove DGR status from school building funds by saying it needs to “correct for market failure” and redirect “existing giving from some entities to others.” (p331)

There is no evidence to suggest that parents and alumni who currently donate to their school’s building funds would redirect those donations to other charitable endeavours with which they have little or no connection.

Rather than increasing or redistributing philanthropy, the removal of DGR status from school building, scholarship and library funds would most likely reduce the total level of giving in Australia and negatively impact schools at the same time.

## Conclusion

The introduction of DGR status for school building, scholarship and library funds has been overwhelmingly beneficial to Australia’s education system, supporting the growth of an enviable diversity of accessible schools over many decades that today serve one-third of families.

The system has operated efficiently since 1954 within a sound regulatory framework that has assured good governance across thousands of education-related funds.

The low risks identified by the Productivity Commission are therefore no justification for its removal.

**On behalf of Australian students, families and the wider school community, AI NSW asks that the Productivity Commission withdraw this draft recommendation from its final report.**