



Australian International Development Network’s response to the Productivity Commission’s inquiry into Australian Philanthropy

Draft report: “Future foundations for giving”

In 2022, the Australian Government committed to working with the philanthropic, not-for-profit (NFP) and business sectors to double philanthropic giving by 2030. In 2023, it asked the Productivity Commission to undertake an inquiry to analyse motivations for philanthropic giving in Australia and identify opportunities to grow it further. Alongside 250+ organisations and individuals, AIDN submitted our recommendations in May 2023 as part of the Commission’s call for initial submissions. In this document, we present our response to the Commission’s Draft report released at the end of 2023 (henceforth *Draft report*).

About AIDN

AIDN’s primary purpose is to advocate for more and better international giving and investing from Australians. We encourage collaboration, highlight the good and urgent work being done in the sector and foster an environment for the exploration of what ‘better’ and ‘more’ giving means today. We do this through coordinating, encouraging and facilitating initiatives between the private sector, corporate, government, philanthropists and investors ultimately leading to greater international engagement from Australia.

AIDN's response to the Draft report

AIDN has a specialised focus on international giving. However, we also encourage any rise in, or efforts to enhance, philanthropic giving within Australia. This is because we champion an environment that supports increased outbound Australian overseas philanthropy to *complement* domestic philanthropy and Government Official Development Assistance (ODA). Consequently, we welcomed many of the key recommendations in the Draft report including:

- Draft recommendation 6.1: A simpler, refocused deductible gift recipient (DGR) system that creates fairer and more consistent outcomes for donors, charities and the community (p.39);
- Draft recommendation 6.2: Supporting reforms to improve the deductible gift recipient (DGR) system (p. 41);
- Draft recommendation 7.2: A suite of reforms to strengthen the Australian Charities and Not-for-profits Commission (p.42);
- Draft recommendation 8.1: Enabling distributions of [private and public ancillary] funds to be smoothed over three years (p.45);
- Draft recommendation 9.1: Creating more value from the data held by Australian Government agencies (p.47); and
- Draft recommendation 10.1: Establishing an Aboriginal and Torres Strait Islander philanthropic foundation (p.50).

In this submission, AIDN is guided by the three most consistent themes identified in AIDN's "philanthropy inquiry [wrap-up](#)" - a summary undertaken by AIDN in October 2023 after reviewing a number of the 250+ submissions, particularly those relevant to the international development sector. Three of the most consistent themes emerging throughout the reviewed submissions included:

- 1) Reforming the Deductible Gift Recipient (DGR) system;
- 2) Encouraging Later-in-Life or Legacy Giving opportunities for Australians; and
- 3) The need for a national giving campaign.

In the next section, we map our responses to how these themes were addressed in the Draft report and seek further information on particular recommendations, including how they relate to charities operating internationally. At present, the Draft report only contains minor references to charities operating internationally (see p.11 or p.29).

1: Reforming the Deductible Gift Recipient (DGR) system

The need to simplify, streamline and reform the process for charities to be granted DGR status, and thus allow donations to said charity to be tax deductible for more donors (provided the charities only use tax deductible funds for purposes explicitly specified as related to their charitable work), was a consistent theme in many initial submissions to the Productivity Commission (Alannah & Madeline Foundation [#47](#); Stronger Charity Alliance [#121](#); Philanthropy Australia [#162](#); Jesuit Social Services [#165](#)). This issue had also been previously raised in several Commonwealth-sponsored independent reviews and charity sector submissions¹.

In particular, several submissions highlighted that gaining DGR status is a cumbersome process, particularly for smaller organisations, often written in bureaucratic language that many charities find challenging to understand (Stronger Charity Alliance [#121](#)). Second, the process is complicated for organisations that work across multiple sectors or issues, as they are required to jump through different bodies and hurdles, depending upon the nature of the diverse programs within their organisation. For example, organisations covering a range of social issues (e.g. preventing poverty) may be unable to gain DGR status because they do not fit into one category (Jesuit Social Services [#165](#)). Third, DGR status can be extremely onerous for organisations applying under the four unique DGR registers: environmental organisations, harm prevention charities, cultural organisations, and overseas aid organisations. This is because these four categories are not designated by the ACNC but are instead administered by Ministers through departmental registers (Treasury [2023](#))². Finally, it was noted that many organisations that pursue impact-focused cause areas that are increasingly motivating Australians to give today, such as catastrophic disaster prevention, climate change or animal welfare, remain excluded from DGR status under Australian law (Effective Altruism [#34](#); Intrepid Foundation [#86](#); Dawn Wade [#87](#)).

In this context, AIDN welcomed Draft finding 5.1 that “the [DGR] system is poorly designed, overly complex and has no coherent policy rationale”, in addition to Draft recommendation 6.1 that “a simpler, refocused [DGR] system that creates fairer and more consistent

¹ Commonwealth's NFP Sector Tax Concession Working Group ([2013](#)) and Productivity Commission into the Contribution of the Not-for-Profit Sector ([2010](#)).

² AIDN welcomed the news that from January 2024 Deductible Gift Recipient (DGR) status has been streamlined for organisations applying under four unique DGR registers (environmental organisations, harm prevention charities, cultural organisations, and overseas aid organisations). This is part of the Government's commitment to boosting philanthropy and supporting a vibrant charitable sector (Treasury [2023](#)).

outcomes for donors, charities and the community” (see footnote)³ and 6.2 “support reforms to improve the DGR system” (see footnote)⁴.

In particular, AIDN welcomed the expansion of the DGR system to include organisations that focus on advocacy. The fact that advocacy organisations are not eligible for DGR status under the current system was flagged in a number of the initial submissions (Effective Altruism Australia #34; Jesuit Social Services #165; Minderoo Foundation #270). This issue has also been regularly raised in relation to organisations working internationally, such as Australian charities seeking to address poverty abroad. For example, at present, only organisations that directly *relieve* poverty can attain DGR status. Organisations that *advocate* for poverty alleviation cannot attain DGR status. However, poverty is a complex and multidimensional phenomenon ([World Bank](#)). To tackle poverty both domestically and abroad, organisations whose purpose is to prevent poverty, raise awareness of it, or advocate more broadly for structural changes that underpin inequality and poverty, such as law reform, should also be included. Consequently, AIDN welcomed recommendations 6.1 and 6.2, and p.17 that explained that:

“The reforms would expand access to DGR status for animal welfare charities, charities focused on injury prevention and public interest journalism. Charities undertaking advocacy activities related to most charitable purposes would also become eligible for DGR status. This would include a range of charities which are currently ineligible, such as social welfare and human rights organisations that advocate for policy change”.

However, currently, AIDN seeks further clarification on how recommendations 6.1 and 6.2 will impact charities operating with two or more purposes. At present, an issue identified with the current DGR system is that organisations can only obtain DGR status for one particular purpose at a time. This causes issues for organisations that work across multiple purposes, even if these multiple purposes have significant cross-over or are naturally

³ Recommendation 6.1 (p.14 - 20 of Draft report): A simpler, refocused DGR system that creates fairer and more consistent outcomes for donors, charities and the community.

The Australian Government should amend the Income Tax Assessment Act 1997 (Cth) to reform the DGR system to focus it on activities with greater community-wide benefits. The scope of the reformed system should be based on the following principles:

- *There is a rationale for Australian Government support because the activity has net community-wide benefits and would otherwise be undersupplied.*
- *There are net benefits from providing Australian Government support for the activity through subsidising philanthropy.*
- *There is unlikely to be a close nexus between donors and beneficiaries, such as the material risk of substitution between fees and donations*

⁴ Recommendation 6.2 (p. 41): Supporting reforms to improve the DGR system.

To facilitate the implementation of reforms to the DGR system, and provide greater clarity to both charities and the Australian Charities and Not-for-profits Commission (ACNC), the Australian Government should:

- *amend the Australian Charities and Not-for-profits Commission Act 2012 (Cth) to require the ACNC to register all new and existing charities with all applicable charitable subtypes. This should include any necessary amendments to enable the ACNC to compel the provision of necessary information to assess eligibility for subtype registration where that registration has not been applied for by an entity. Charities should continue to be able to seek review of subtype registration decisions through the Administrative Appeals Tribunal or its successor*
- *develop a legislated definition of what constitutes a public benevolent institution to delineate its scope more clearly.*

related. For example, a corporate foundation may be interested in addressing the dual purposes of both poverty alleviation and environment causes. Despite the fact that it is increasingly shown that climate change and poverty are inherently intertwined ([World Vision](#), [OECD](#)), the corporate foundation would need to set up two different charities to address these two different causes. Under the proposed recommendations 6.1 and 6.2 in the Draft report, AIDN welcomed the following paragraph on p.17:

"Charities that pursue multiple eligible purposes would also find it easier to access DGR status because eligible entities would only need one DGR endorsement from the Australian Taxation Office (ATO), which would cover all eligible activities"

However the paragraph then goes onto say:

"This would assist charities that support groups of people *rather than a single activity*. For example, charities that support women, young people, Aboriginal and Torres Strait Islander people and communities, LGBTIQ+ people, or consumers".

AIDN is seeking further information on whether the proposed expansion of the DGR status in the current Draft report includes *dual purposes* in addition to organisations that aim to support *dual or multiple groups of people*.

2: Encouraging Later-in-Life or Legacy Giving opportunities for Australians

The topic of legacy giving, through gifts in wills or bequeathing of superannuation balances, was also regularly highlighted throughout initial 2023 Productivity Commission submissions by both organisations with domestic and international foci (Fundraising Institute of Australia [#134](#); Philanthropy Australia [#162](#)).

First, the need to harness the untapped potential of super balances at death was featured in various submissions. Australia has an ageing population and superannuation balances at death are set to reach at least \$130 billion by 2059 (Philanthropy Australia [#162](#)). However, at present, where members of the public allocate a portion of their superannuation to be donated to a NFP at their passing, they are required to fill out a "binding death nomination" where the money is transferred to their estate, the amount is then taxed and then paid out. To make this form of giving more streamlined and compelling for the Australian public, several submissions advocated for the lifting of these tax penalties if donated to DGR status charities (Alannah & Madeline Foundation [#47](#); Philanthropy Australia [#162](#); Center for Social Impact [#191](#); the Smith Family [#216](#); Save the Children [#246](#)).

In response to these recommendations, the Draft report found that “there is no case for reducing superannuation taxes for bequests” (Draft finding 8.1)⁵. However, AIDN would like to further highlight that there still remain several recommendations in relation to giving at death that were not covered in the Draft report and could be considered as alternative options to addressing this wider theme. In particular, as we flagged in our “wrap-up summary”: several submissions recommended that the Productivity Commission undertake policy design work aimed at delivering maximum benefit and establishing a Living Legacy Trust structure, drawing on previous work and advice from interested philanthropists. For example, the living legacy trust structure could establish a new tax incentive, where donors could place their capital in a trust for the benefit of a charity upon the donor’s passing. Submissions also recommended that the Productivity Commission re-examine the merits, benefits and costs of removing capital gains tax on donations of shares to DGR charities (Mission Australia #61; Philanthropy Australia #162; Center for Social Impact #191; The Smith Family #216).

3: The need for a national giving campaign

The third theme that emerged in our “inquiry wrap-up summary”, and featured in AIDN’s own initial [submission](#), was the need for a national giving campaign. In particular, several submissions highlighted the desire for a campaign to inspire Australians, normalise and enhance community understanding of the value of philanthropy, and to highlight to the public simple and practical ways to give (Alannah & Madeline Foundation #47; Nobel Ambition #131; AIDN #143; Philanthropy Australia #162; The Smith Family #216). It was also argued that a giving campaign should target markets with great potential for growth, including high net-worth Australians and businesses (Philanthropy Australia #162). AIDN’s own submission argued that such a campaign would also be important for dispelling stubborn and ongoing myths related to international giving.

Unfortunately, Draft finding 10.1 was that “a government-funded public campaign could help broaden participation in giving, but there is insufficient evidence to conclude that such an intervention would be effective”⁶. On the other hand, however, AIDN welcomed

⁵ Draft finding 8.1 (p.46): There is no case for reducing superannuation taxes for bequests. The current taxation arrangements for superannuation treat a donation to a charity in the same way as a payment to any other non-dependant beneficiary. The tax system is not neutral in death and provides a larger tax benefit for the superannuation component of an estate. Adding further concessions at the time of death would be a relatively costly way for the Australian Government to incentivise philanthropic giving.

⁶ Draft finding 10.1 (p.49): A government-funded campaign could help broaden participation in giving, but there is insufficient evidence to conclude that such an intervention would be effective.

further Draft recommendations that directly related to how AIDN had initially envisioned such a campaign. In particular, AIDN had proposed a campaign that showcased available sources that detail the efficacy of charities to enhance public trust, confidence, and awareness in the sector. Moreover, AIDN advocated that the regulatory and compliance work underpinning and strengthening Australian giving should be communicated to the public through promoting the ACNC's searchable public database. Consequently, AIDN welcomed Draft recommendation 9.1: "creating more value from the data held by Australian Government Agencies"⁷, in addition to 7.2 "a suite of reforms to strengthen the ACNC" (p.42) and 7.3 "increasing certainty about ACNC regulation" (p.43). Together, these recommendations will support a broader objective of increasing trust and transparency in the sector.

As promoting "more" and "better" giving is at the heart of what AIDN does, AIDN will continue to seek opportunities with other organisations within the sector to promote enhanced and large-scale giving moving forward, and looks forward to supporting the implementation of 9.1; 7.2; and 7.3.

More evidence is needed, including through rigorous evaluations from Australia or overseas, to demonstrate that a government-funded campaign would be effective at increasing giving and yield net benefits to the community. Governments could maximise the chances of a successful public campaign (and opportunities for learning) by ensuring any public campaigns that involve public resources (whether it be a campaign run by a government agency or public funding of a sector-led campaign) adhere to sound program design, evaluation and transparency principles.

⁷ Draft recommendation 9.1 (p.47): Creating more value from the data held by Australian Government agencies.

The Australian Charities and Not-for-profits Commission (ACNC) and the Australian Taxation Office (ATO) should work together to enhance the utility of Australian Government sources of information on charities and giving for donors and the public.

The ACNC should:

· present data on the ACNC charity register in ways that are more meaningful and accessible to donors and the public (such as more prominently presenting charities' deductible gift recipient status), where it is enabled to do so by the Australian Government.

The ACNC and the ATO should work together to:

· publish additional information on distributions by ancillary funds, including collecting and publishing additional information by sub-funds within public ancillary funds · raise public awareness of government sources of information on charities, including the ACNC charity register.

The Australian Government should:

· implement reforms to enable the ACNC to publish circumstances and reasons for referrals made to other government agencies (draft recommendation 7.2) · address regulatory impediments to the ACNC presenting more meaningful information on the ACNC charity register, where necessary.

We thank the Productivity Commission for presenting us with the opportunity to make this submission. We will be available to answer any questions on our submission or provide oral evidence if helpful.

Please direct inquiries or requests to:

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