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To whom it may concern,

Please find enclosed the Foundation for Rural & Regional Renewal's response to the *Tax Deductible Gift Recipient Reform Opportunities* discussion paper. FRRR welcomes the opportunity to contribute to this important work and looks forward to a simpler and more accessible system to enable the charitable and philanthropic sectors to grow and continue to support a more prosperous and equitable nation.

Yours sincerely,

Ms Natalie Egleton
Chief Executive Officer

Tax Deductible Gift Recipient Reform Opportunities
Discussion Paper
The Treasury

SUBMISSION FROM
THE FOUNDATION FOR RURAL AND REGIONAL RENEWAL

Background Information and General Comments on DGR Issues for Rural, Regional & Remote Australia

About FRRR

The Foundation for Rural and Regional Renewal (FRRR) was established in 2000 by the Australian Government and the Sidney Myer Fund, to meet the needs of rural and regional Australia. Its vision is *'vibrant and adaptive rural, regional and remote communities'* and its mission is *'to champion the economic and social strength of Australia's regional, rural & remote communities through partnerships with the private sectors, philanthropy and governments.'*

FRRR is a tax concession charity, established to provide a viable social and economic future for Australia's rural and regional communities through seed funding for social, health, education, cultural, environmental and economic projects beneficial to these communities. FRRR is specifically listed as an Item 1 DGR under item 13.2.2, section 30 105 of the Income Tax Assessment Act 1997.

FRRR's DGR listing includes three notable distinctions. First is that **economic development** is included as a charitable purpose for FRRR in recognition of the intrinsic relationship between social and environmental wellbeing and prosperity and economic prosperity in rural, regional and remote Australia. FRRR is the only organisation in Australia with this charitable purpose. The second is the ability to provide **grant funds to rural, regional and remote non-profit groups without DGR status**, as long as the activities are **charitable** and **align to FRRR's purposes**. The third is the ability to formally **partner with rural, regional and remote non-profit groups which do not have DGR status** to receive grants and donations on their behalf for activities that support FRRR's purposes. FRRR currently partners with over sixty groups in this way including Landcare NSW, Blaze Aid, Farmers for Climate Action, and a number of Community Foundations which are typically DGR 2 entities and therefore unable to receive funds from PaF's and only able to distribute their funds to DGR 1 entities.

Since 2000, FRRR has distributed over \$70 million in grant funds to over 8,000 projects in rural, regional and remote communities nationally. Those projects have on average leveraged the grant with a further 3:1 in cash and in-kind contributions towards the project.

FRRR's objects are broad, encompassing a range of activities, including grant-making, advocacy, consulting, and researching, which contribute to achieving the purposes of the organisation. FRRR currently delivers on its purpose through three key pillars of activity, as shown here.



Rural, Regional and Remote DGR context

The distinctions noted above are important and FRRR believes that these will continue to be required beyond the proposed reforms to DGR registrations and administration for smaller rural, regional and remote communities.

This is because a significant challenge to these communities is that due to their very nature of being small and remote, they have a lower capacity to raise funds and less resourcing to undertake projects of benefit and which address the issues they face. They find it much harder to access philanthropy, pro-bono and in kind support and volunteers, and importantly, often have a lower capacity to access expert advice in the areas of legal and taxation regulation within their community or direct network. There are very few DGR 1 entities in rural, regional and remote Australia and since 2000 approximately 80% of organisations that FRRR has supported have not held any DGR status. In many cases, the population size of these communities and the charities operating there are of a scale that does not warrant the currently burdensome process of applying for DGR registration. There is also a real case to be made that many of these groups would not require this kind of tax status due to the very small amount of funds required when considered in light of the obligations of holding DGR status; even if simplified.

FRRR and community foundations therefore play a critical role in channelling philanthropic funds to these smaller communities. It is important to note however the significant limitations of the current DGR framework on community foundations operating in rural, regional and remote communities. As DGR 2 entities, community foundations are only able to give to DGR 1 entities. As noted above, in rural, regional and remote communities, there are frequently few if any DGR 1 entities. This means that the only way in which community foundations can currently give to grassroots non DGR charities is through a partnership with FRRR, which is able to receive donations from community foundations and redirect those funds to charitable projects in that community foundation's location. We note with disappointment that this issue has not been addressed in the Treasury discussion paper.

For those rural charities willing and able to apply for DGR status, the current process for obtaining DGR endorsement is more difficult for groups outside metropolitan cities. It is evident that there are many often compounding reasons why rural, regional and remote community organisations often find it more difficult than their metropolitan counterparts to achieve DGR status. Any review of DGR reform should carefully consider equity of non-metropolitan groups in obtaining and maintaining DGR status, and look to make it easier, not harder, for charitable funds to be contributed to rural, regional and remote communities, where there is a high level of need for such support.

We note the discussion paper's reference to the challenges in smaller communities of identifying Responsible Persons and support this observation. However we suggest this is but one complicating factor among many.

The changing face of charities, non-profits and philanthropy

The non-profit and charities sector in Australia has significantly evolved in recent years, with new and emerging types of organisations including hybrid structures and advocacy based organisations, reflecting a new form of citizenry in which communities seek to mobilise their skills, knowledge and philanthropic funds towards addressing global challenges such as economic and industrial disruption, climate extremes, and food and water security, as well as local issues including access to services, health and wellbeing, and strengthening social cohesion.

There is however a vast difference in the role the charitable sector and philanthropy can play within rural and metropolitan settings. FRRR sees firsthand through our grant programs and capacity building support the very broad range of issues facing communities across Australia. These are immense, diverse, complicated and interconnected. Rural, regional and remote communities have challenges in all areas – they have limited access to services and goods (technology, transport and health, education, income/employment opportunities, cultural activities), face issues of social isolation, racism and cultural diversity, bear the burden of the country's natural resource management, agriculture and food

production, environmental and sustainability issues, and have the added challenges of responding to population decline and inward/outward migration. Philanthropy can play an important role in supporting communities to respond to these challenges, but as noted above are restricted in being able to do so.

Distinction between charitable ‘purpose’ and ‘activity’

Rural, regional and remote communities are actively addressing these and other issues through diverse approaches and via a range of organisation types; not all of which are technically ‘charities’ but all of which offer clear public benefit and are for charitable purposes. These include small grassroots and volunteer based organisations such as chambers of commerce, local governments, landcare groups, volunteer emergency services organisations, community service providers, neighbourhood houses and centres, agricultural societies, and community action groups. The activities that they undertake in the pursuit of their purpose are diverse and will respond and adapt over time to issues and needs. A focus on ‘activity’ over ‘purpose’ in DGR administration would create additional unnecessary burden and would restrict social innovation and efficiency. FRRR therefore recommends that this distinction be made clear and that the focus for DGR listing be on ‘purpose’ rather than ‘activity’. FRRR would argue that examples such as that described above exist in a large portion of rural, regional and remote communities at the grassroots level and such sees an ongoing role for bodies such as FRRR, which can bear the requirements of the Charities Act and DGR listing and manage the complexity of activities undertaken by the diverse range of organisation types.

DGR Types

FRRR notes that the discussion paper did not reference the different types of DGR’s. There is scope, as noted above, to review the listing of community foundations and we would also argue the current operation of Australian Disaster Relief Funds, which are listed with a period of two years from the date of declaration of the natural disaster to raise tax deductible funds. There needs to be adequate time for community members to address their own immediate needs before the planning and engagement process can take place. This often does not occur for at least twelve months after the event. Proper planning and consultation for recovery projects often takes another twelve to eighteen months, creating difficulties in fundraising through an ADRF for this longer term recovery. This requirement to seek donations within a two year period creates artificial timeframes. Inadequate and insufficient planning can cause conflict and increases the likelihood of volunteer fatigue in rural communities. ADRFs should encourage ongoing support for community recovery, and recognise that funding will be required for medium to long term recovery needs. FRRR has worked in partnership with many organisations that established ADRFs post disaster, as well as the Victorian Bushfire Appeal Fund. It is FRRR’s recommendation that social and economic renewal be incorporated into any changes to ADRF regulations and that ADRFs should be able to accept donations up to five years after the event. FRRR would welcome the opportunity to be involved in any future discussions on changes to the ADRF requirements.

Specific Responses to Consultation Questions

1. What are stakeholders’ views on a requirement for a DGR (other than government entity DGR) to be a registered charity in order for it to be eligible for DGR status. What issues could arise?

FRRR supports the proposal to require DGR entities to also be registered charities as part of their DGR eligibility. We see this as a logical requirement which would strengthen governance requirements and transparency in relation to activities and public benefit from those activities.

Requiring all organisations with any DGR endorsement to register as a charity in one place would also make such information more accessible to the public and would be very useful for grant seekers, donors, grant makers and community foundations. It would also considerably simplify the process for applicant organisations, which may make it more likely for rural regional and remote groups to achieve DGR

endorsement. Greater transparency is beneficial for reporting on the use of public funds (e.g. funds raised /distributed via DGR) and should be encouraged – organisations who are “doing the right thing” have nothing to fear in declaring what they do.

2. Are there likely to be DGRs (other than government entity DGRs) that could not meet this requirement and, if so, why?

FRRR is not aware of any.

3. Are there particular privacy concerns associated with this proposal for private ancillary funds and DGRs more broadly?

FRRR doesn't see any particular privacy issues for PaF's or DGR's. We are now in an era where transparency and access to data to inform decisions and to reduce duplication and inefficiency is critical. This is currently a significant gap in the philanthropic sector and one which the peak body Philanthropy Australia is working on addressing, but would be strengthened by a centralised reporting requirement.

4. Should the ACNC require additional information from all charities about their advocacy activities?

FRRR does not believe that this additional requirement would add any value from a compliance perspective and cannot see any evidence for such a requirement being justified. It would not support a reduction in red tape and would add costs to both charities and the regulator. Advocacy activities are an important and fundamental aspect of a civil society and are a critical activity for charities to undertake. In FRRR's experience, advocacy work is fundamentally related to facilitating education and awareness about issues that are of concern to parts or the whole of our communities and assists communities to take action themselves on important issues affecting them. This kind of activity strengthens social cohesion and active citizenship and does not warrant policing.

5. Is the Annual Information Statement the appropriate vehicle for collecting this information?

FRRR sees this process as a relevant and adequate vehicle for collecting information.

6. What is the best way to collect the information without imposing significant additional reporting burden?

FRRR is of the opinion that the best way to collect the information without imposing significant additional reporting burden is to make reporting standardised on activities undertaken for charitable purposes as outlined in the Charities Act.

7. What are stakeholders' views on the proposal to transfer the administration of the four DGR Registers to the ATO? Are there any specific issues that need consideration?

FRRR agrees that transferring the four registers to one place is an important step in reducing red tape and administrative burden, and in building a coherent system. However we believe that whilst transferring the four DGR registers to the ATO might help administrative cost for government this may not be the case for charities, as the ATO would be less familiar with community needs. This could ultimately contribute to greater demand for direct government assistance and not be a financial saving at all.

FRRR's position is that one entity should become responsible for registration, monitoring and management of DGR endorsement – providing similar reporting requirements and education and support across all entity types. If this requirement to register with one body, such as the ACNC, were to be enforced, DGR charities should then only be required to report to this one body, not multiple bodies. Specifically, this point relates to fundraising licenses and reporting as well. For example, the ACNC should take full responsibility and entities should not be required to report to the ATO, ASIC, State departments, State revenue offices and State/Territory Attorney's General. A cohesive integrated approach is required.

The ACNC is the preferred body as they are more engaged with and have a deeper appreciation of community needs and the operational environment of community groups. They are therefore better placed to support and educate groups to use their DGR endorsements legally and effectively. However, this change would only be reasonable if the government was prepared to allow the ACNC to operate as an independent arbitrator for the sector. ACNC registered charities are subject to ACNC's governance standards and supervision – and operate legally. The ACNC has evidenced through its operations that it is capable of regulating organisations in this way.

8. What are stakeholders' views on the proposal to remove the public fund requirements for charities and allow organisations to be endorsed in multiple DGR categories? Are regulatory compliance savings likely to arise for charities who are also DGRs?

FRRR is in favour of enabling charities to be endorsed across multiple categories. This makes sense in an environment where community organisations across rural, regional and remote are often required to have a holistic approach to their work; wearing multiple 'hats' and working to support more than one aspect of their communities' well-being. In light of this, they may be confused as to where they are most suited to register – and if they do successfully register as an endorsed DGR entity they then face risks in added governance checks ensuring their DGR funds are not used for conducting activities which are beyond their endorsed scope. If an organisation's objects and activities are broad and do cover two or more DGR categories, it often means that that organisation is ineligible for DGR endorsement altogether. This situation arises because many of the DGR categories require the organisation to have a 'sole', 'exclusive', or 'primary purpose' and it is not possible to have more than one exclusive, sole or primary purpose.

This approach may also encourage a reduction in duplication of effort however there should be caution regarding the potential for existing single purpose organisations to be negatively impacted.

We do however oppose the removal of the public fund requirement. This structure supports compliance and separation of activities undertaken by charities and increasingly, for entities with alternative structures such as social enterprises and hybrid entities. In these cases, the public fund requirement helps to ensure transparency and clarity of purpose in the use of tax deductible funds.

If this proposal is not adopted by Treasury, then a compromise could be developed whereby entities could still be endorsed for one or multiple named specific charitable purposes. Entities could then be required to report at a very high level on how they used their different endorsed purposes – such as nominating a percentage of their operations to each charitable purpose they are endorsed for – enabling them to work broadly across their community and issues faced, but also to report (and for the ACNC to monitor) against the different charitable purposes.

9. What are stakeholders' views on the introduction of a formal rolling review program and the proposals to require DGRs to make annual certifications? Are there other approaches that could be considered?

FRRR strongly opposes this proposal and we do not see a need for an alternative as the current governance and compliance requirements support a strong level of compliance within the sector. The proposed introduction of a formal rolling review program and the proposals to require DGRs to make annual certifications, suggests non-compliance is an issue – but we see no evidence to support this. The introduction of annual certification and rolling reviews would take up a significant amount of time by the charities to the extent that it may impact on their ability to focus on their purpose, would be costly to the Government, and would not add material gains to the sector's performance.

10. What are stakeholders' views on who should be reviewed in the first instance? What should be considered when determining this?

Further to the points above, FRRR is not of the position that a review should occur and therefore does not support the nomination of those to be reviewed. This is viewed as a punitive approach which has

not been presented with evidence to suggest that this is an appropriate use of government or charity resources.

11. What are stakeholders' views on the idea of having a general sunset rule of five years for specifically listed DGRs? What about existing listings, should they be reviewed at least once every five years to ensure they continue to meet the 'exceptional circumstances' policy requirement for listing?

FRRR is against the sunset rule of five years for specifically listed DGRs and the review of existing listings (at least once every five years) to ensure they continue to meet their requirement for listing. Five years – or less - is a short time frame in organisational lifespans and often not enough to achieve any significant impact on the issues they are working to address. This is too harsh for any charity, but particularly for small charities. They would be expensive for small charities and significantly prejudice charitable endeavours: organisations would put valuable and limited resources towards reviews and re-applying when they should be focussing on undertaking the work they are endorsed to do. FRRR believes that there are currently adequate existing mechanisms in place that can be utilised to undertake audits and reviews where there is deemed to be a need.

In FRRR's case as a specifically listed DGR, this proposal would cause significant interruption to our operations and uncertainty for our stakeholders, which would almost certainly negatively affect the organisation's viability and future impact. FRRR has mature and sophisticated governance, investment, and operating structures and a sunset rule would require an ongoing cycle of substantial change that is not warranted in any way.

12. Stakeholders' views are sought on requiring environmental organisations to commit no less than 25 per cent of their annual expenditure from their public fund to environmental remediation, and whether a higher limit, such as 50 per cent, should be considered? In particular, what are the potential benefits and the potential regulatory burden? How could the proposal be implemented to minimise the regulatory burden?

Requiring environmental organisations to commit a percentage of their annual expenditure from their public fund to environmental remediation is not endorsed by FRRR. FRRR's support for environment (through its charitable purpose and Item 1 DGR special listing) is similar to that of the Australian Environmental Grantmakers Network (AEGN), the peak body for environmental philanthropy, who is listed on the register of environmental organisations. FRRR notes that both organisations do no physical environmental remediation but both are having significant positive impacts and work towards achieving positive outcomes through their charitable purposes. FRRR can see no potential benefit in requiring environmental organisations to undertake a set percentage of remediation work: FRRR can only see a large increase in the potential regulatory burden with no clear benefit to tax payers.

13. Stakeholders' views are sought on the need for sanctions. Would the proposal to require DGRs to be ACNC registered charities and therefore subject to ACNC's governance standards and supervision ensure that environmental DGRs are operating lawfully?

FRRR believes that by having all DGR's registered as charities with the ACNC, that the ACNC has adequate monitoring tools that would ensure that charities do act in accordance with charitable law. In their role as regulator and in the assistance they provide to charities to support understanding of compliance requirements, FRRR believes that this is an adequate vehicle.

FRRR is concerned by the extraction of environmental organisations, and not others, in this proposal in relation to 'lawful' activity. FRRR notes that advocacy is undertaken by many groups in specific circumstances in line with their charitable purposes, for example advancing public debate on a charitable topic (such as environment, health, education). As noted above, this activity is not limited to environmental organisations. All DGR organisations should be required to follow similar rules and reporting requirements. For a number of charities including environmental organisations, public expression of objection to activities that may negatively impact on the natural environment is a core

activity and one that has seen some of Australia's most precious natural assets protected from destruction and subsequently developed as major tourism assets.

Additional Note on Charitable Purposes

The Federal Government acknowledged the need to better facilitate access to Item 1 DGR and has itself worked or partnered to create a number of bodies that are specifically listed as Item 1 entities which are legally able to pass their DGR status onto organisations for projects that register with them; such as FRRR, [Creative Partnerships Australia](#) (CPA), (and the [Australian Sports Foundation](#) (ASF)). With these bodies, if the project is approved as falling within the terms of the Foundation's aims, then donations to it are tax deductible despite the actual group implementing the project not being a DGR in itself.

FRRR notes the need for such organisations to remain, as they play an important role in the DGR landscape and ensuring effective and equitable use of tax payer monies.

Further to this it is FRRR's position that the list of charitable purposes in the Charities Act is not sufficient. The definition needs expanding or there needs to be a specific type of listing added that recognise the **social** and **economic** renewal of rural, regional and remote Australia, and the charitable role of **sport** in rural and regional communities.

- ✓ provision of infrastructure – halls are often used as emergency meeting places and gatherings for the whole community supporting community health and wellbeing. Public facilities such as playgrounds, amenities blocks and information boards are often critical to attracting and retaining residents and tourists alike, and for supporting local economic development.
- ✓ social activities in rural regional and remote communities often have charitable purposes, such as to engage or help people who are socially isolated or disadvantaged, and the club's activities are the way it achieves this purpose
- ✓ sporting and recreational organisation – again, their purpose may be charitable, for example through providing sporting activities for people with disabilities or the elderly; or using sport to engage and to help people who are socially isolated or disadvantaged. In many rural and regional communities, the local football and netball club is identified as the most important community institution, and whilst many community members do not actively participate in the team, their attendance at games and preparedness to travel large distances to support the team is indicative of a wider purpose. For example in Kinglake, Victoria after the devastation of the 2009 bushfires, the local football club became an important symbol of renewal and the spirit of the community to redefine itself in a new environment. In drought affected communities, the club change rooms and weekly training session create the opportunity for stressed individuals to share challenges and concerns, becoming an informal community counselling forum.

FRRR proposes that the definition of charity be amended to include the "advancement of and participation in amateur sporting and recreational activities that promote community connectedness in rural, regional and remote Australia". In Scotland the "advancement of public participation in sport" is identified as charitable purpose. In the England and Wales Charities Act 2006, the "advancement of amateur sport" is also recognised as having a charitable purpose.

- ✓ professional or trade group – often these types of bodies have a purpose which is charitable, such as advancing education and in the regional context they are important in supporting local economic development.

Closing Comment

FRRR is often contacted by community groups with questions about the complex and technical area of DGR status, as they choose to partner with FRRR for approved charitable projects while they investigate if/how they should approach gaining endorsement, and undertake this often lengthy process.

FRRR has responded to specific questions in the discussion paper that relate to its operational environment, and as a national advocate for rural and regional issues and representative of many thousands of community based not for profit groups that do not have a voice within this sector.

The very existence of FRRR, and its specific listing in the Tax Act, recognises the lack of appropriate DGR vehicles to drive charitable giving into rural, regional and remote Australia. Therefore, in seeking to redefine ways of managing DGR, FRRR has attempted to highlight the inclusion of the specific needs and roles of rural and regional Australian community groups as part of that process, and issues regarding obtaining DGR endorsement in the current framework. The unique issues facing rural and regional communities are important to put front and centre when considering how best to regulate and reform Australia's DGR framework.