

**FLEURIEU COMMUNITY FOUNDATION LTD**

**Guidelines Title: Donations**

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| <b>Date of Adoption</b>     | 27 April 2012 |
| <b>Dates Reviewed:</b>      | 28 July 2017  |
| <b>Date of Next Review:</b> | 30 June 2019  |

**1. PURPOSE:**

To outline the framework for making donations to the Fleurieu Community Foundation (FCF).

**2. BACKGROUND:**

The Fleurieu Community Foundation is incorporated as a Public Company Limited by Guarantee under the Corporations Act and is required to report to the Australian Securities and Investment Commission (ASIC) and the public about its activities.

Aims of the FCF include:

- To maintain a sustainable Community Foundation in the Fleurieu (Fleurieu Community Foundation Ltd)
- To build substantial funds from donations and
- To use the income generated from the Open and Public funds to provide grants for charitable purposes and public benefit.

Providing donations to the FCF is a simple, cost effective way for people to invest in the future of local communities and towns of the Fleurieu.

There are many donation options linked to the structure of the FCF and legislative framework governing charitable status and tax deductibility.

The Fleurieu Community Foundation Ltd (18 142 396 674) is the Trustee responsible for two separate Trust funds:

- Fleurieu Community Foundation Open Fund - 80 578 432 438
- Fleurieu Community Foundation Public Fund - 23 220 972 653 -

The Public Fund is endorsed as a Deductible Gift Recipient (DGR).

Each entity including Fleurieu Community Foundation Ltd has a separate bank account.

It must also be noted that donations may also be made to Fleurieu Community Foundation Ltd to provide support for developing the organisations infrastructure and day to day running – particularly in the early establishment phase.

**3. PRINCIPLES:**

All donations are encouraged. The Board believes that the encouragement of small donations in particular will provide opportunities for many more people in the Fleurieu region to become involved in philanthropic activity on a more regular basis.

**4. DEFINITIONS:**

- *Open Fund* - Gifts not requiring a tax deductible receipt can be invested in the Open Fund and allows FCF to make grants to a broad range of charitable projects and can be given to a wider number of organisations, not just those with deductible gift recipient (DGR) status.
- *Public Fund* – A public fund is a grant-making fund established by will or by trust. It must be managed and administered by a majority of people who meet the ATO's 'community responsibility' check. The fund must invite and receive donations from the public. Public funds, if endorsed by the ATO as a DGR (Deductible Gift Recipient - see below), are able to receive tax-deductible gifts. Depending on the type of public fund, there are restrictions on grant making, which must be applied.
- *Fleurieu Community Foundation Ltd* – the fund that provides financial support that enables the administration and infrastructure of the organisation.

- **DGR** – Deductible Gift Recipient (DGR) is an organisation's status under the *Income Tax Assessment Act, 1997* that allows donations to be tax deductible for the donor.
  - **Charitable Purposes** - A charitable purpose is one, which the law regards as charitable. The term 'charitable' has a technical legal meaning that is different from its everyday meaning. Charitable purposes are any of the following purposes:
    - the relief of poverty or sickness or the needs of the aged
    - the advancement of education
    - the advancement of religion
    - other purposes beneficial to the community, and
    - provision of child care services on a non-profit basis.
  - **Tax Concession Charity (TCC)** – a TCC is a charity that is exempt from paying income tax on income derived during the period of endorsement (ATO definition).
  - **Sub-funds** – Sub-funds are management accounts established in the FCF Public or FCF Open Fund, depending on whether a tax deduction is being claimed. The accounts operate as internal records for the purpose of tracking donations and grants attributed to them. However, the funds are not separate from other money in these accounts because donations are pooled to get the best possible investment outcomes. The pooling of funds is also a requirement for tax deductibility status, because the consequence of sub-funds being treated as a separate fund within the FCF Trust is that the ATO will not allow tax deductibility to be available.
  - **Named Fund** - A named fund is a special sub-fund that carries a name for the purpose of honouring someone (or something) and preserving their memory. The sub-fund can carry the name of the donor, the donor's family, a family member, a friend, a local pioneer, outstanding citizen or an organisation.
  - **Themed Fund** – A Theme Fund is a special sub-fund established for the purpose of directing grants into a specific area of community need or cause as preferred by the donor. **Sponsors** - when the donor receives something tangible or of commercial value in return, or insists on or is promised or acts on an undertaking that a benefit, advantage, right or privilege be returned to him or her as a result of making the donation, then the contribution is not a gift for taxation purposes. In these cases, contributions may be classified as sponsorship and may be claimable as a general business expense (*donors should seek their own professional advice*).

## 5. DETAILS:

### **Donations General**

Donors are vital to the establishment of philanthropic trusts. Donors to the FCF Ltd organisation account and to the Public and Open Fund have the benefit of knowing that their donation – no matter how small – will stay in the Fleurieu and benefit the local community, helping to make the Fleurieu a better place to live, work and play.

- Donations to the FCF can be made in cash, by cheque, credit card or direct debit.
- To gain a tax deduction, donations can be made to the Public Fund and include a gift of money (over \$2 or more including foreign currency); property valued at over \$5,000 (property includes physical things as well as rights and interests that are capable of ownership and have value); and property purchased by the donor during the 12 months before making the gift.
- A tax deduction can only be given for an unconditional gift. The payment of money by a donor with a direction or condition is not a tax-deductible gift.
- Bequests – i.e. gifts of money or property made under a will - are not tax deductible and are therefore generally allocated to the FCF Open Fund.

### **FCF Public Fund – a Tax Deductible Fund**

The FCF Public Fund is comprised of a Gift Fund and has the potential for a range of sub-funds.

- The FCF Public Fund has Deductible Gift Recipient (DGR) status, which means that, under taxation law, donors may claim a tax deduction for donations over \$2.00.
- The proceeds of the FCF Public Fund can only be granted to charitable organisations that also have DGR status.
- Sub-funds can either be "*Themed Funds*" (established by a donor to meet particular identified charitable needs) or "*Named Funds*" (in which one or more donors wish to name a fund in honour of an individual, company or family) – see *FCF Named & Themed Funds Guidelines* for more detail.

- The Public Fund, Theme Funds and Named Funds are not separate funding pools but are different financial accounts within the Public Fund.

Donors who establish Named or Themed sub funds will receive relevant acknowledgment and benefits according to the *Named and Themed Fund Guidelines*.

#### **FCF Open Fund – a Non-tax Deductible Fund**

- The FCF Open Fund has Tax Concession Charity (TCC) status.
- Under taxation law TCC status means that the Open Fund is exempt from paying income tax
- The Open Fund is comprised of donations and bequests (i.e. gifts of money or property made under a will) along with any income derived from FCF fund raising activities.
- Grants from this fund can be made to community organisations, community groups and individuals who do not have DGR status.
- Distributions from the Open Fund must be made for charitable purposes and will be determined in accordance with Board priorities.
- People donating to the Open Fund may establish Named and Themed sub-funds as separate management accounts, but a tax deduction cannot be claimed. See *FCF Named & Themed Funds Guidelines* for more detail

Donors who establish Named or Themed sub funds will receive relevant acknowledgment and benefits according to the *Named and Themed Fund Guidelines*.

#### **FCF Ltd – Organisational Account**

- The Fleurieu Community Foundation Ltd is the organisation's administration and infrastructure account that facilitates the day-to-day operations of the Foundation and it's work in the community.
- The Fleurieu Community Foundation Ltd has Tax Concession Charity Status (TCC) and is exempt from paying income tax.
- Donations made by individuals, corporate and company sponsorship to the Fleurieu Community Foundation Ltd may receive a tax deduction on issue of a tax invoice.
- Funds resulting from sponsorship agreements with the Fleurieu Community Foundation Ltd are not donations (gifts) as they are conditional and may receive such things as advertising, signage or naming rights or some other type of benefit of value in return (see *Sponsorship Policy* for more details).

#### **Sub-Fund Advisory Committees**

Donors to both the FCF Public Fund and FCF Open Fund may establish advisory committees for Themed and Named Funds (which may be the donor alone or persons appointed by the donor) to advise on aspects of sub-fund management from establishing grant-making guidelines, encouraging donations, through to identifying, assessing and choosing grant opportunities.

Advisory committees may provide advice to the Trustee and make suggestions regarding the distribution of grants from sub-funds. However donors and advisory committees must be aware of the legislative restrictions that apply to charitable trusts – **i.e. grant-making decisions must always remain within the discretion of the Trustee**. The Trustee cannot agree to be bound by any direction from a donor as to grants or give assurances that a request be followed, as a Trustee cannot fetter its discretion under common law relating to trusts.

#### **Administration Fees**

The Trustee, as funds manager, will incur operational costs for the receipt of donations, distribution of grants and provision of donor services. These costs are recovered by charging administration fees on all donations.

The aim of the Foundation is for 100% of donations to be dedicated to the purpose of the fund, however in the establishment phase of the Foundation a moderate administration charge will be made to supplement sponsorships, which will not exceed 2% per annum of the capital sum being administered.

### **Donor Benefits**

The Board believes that if people are caring and generous to contribute large amounts of money toward the establishment of a perpetual Trust fund, then they should receive some recognition and benefit for their generosity that is over and above the pleasure received from giving to others, and may include such things as:

- Receive FCF Newsletters (distributed electronically),
- Receive FCF Annual Report,
- Acknowledgement in newsletters, Annual Report and on the website, and
- Invitations to FCF public functions.

It should be noted that major donors have the option to remain confidential and forego any form of public acknowledgement. Donors who establish Named or Themed sub funds will receive appropriate acknowledgment and benefits as outlined in the *Named and Themed Fund Guidelines*

### **6. RESPONSIBILITY:**

The Board is responsible for determining donor policy.

The Executive Officer is responsible for implementing this policy and ensuring compliance with donation procedures.