

## Article Information

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## What happens when a charity's purpose can't be amended? Lessons from Bushfire Fundraising and the Greens' proposed solution

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In an article published on 21 February 2020, Sarah Johnson commented on the bushfire fundraising campaign by comedian Celeste Barber and the difficulties arising when a charity's objects are expressed narrowly and the founding document does not permit their amendment.

Since that [article](#) was published, the Greens have announced that they plan to introduce a bill to ensure that the more than \$50 million donated by the public can be used for the purposes donors intended. This article considers the Greens' proposal.

Recently, Celeste Barber led a Facebook fundraising campaign to raise money to assist those affected by the New South Wales bushfires. More than \$50 million was raised, the majority of which was donated to the NSW Rural Fire Service & Brigades Donation Fund (**Fund**).

As has subsequently become clear, the Trust Deed for the Fund did not permit the money raised to be used to benefit the victims of the bushfires as Ms Barber and other donors had intended. Instead, the Trust Deed requires the Fund to be used to meet the costs of purchasing and maintaining fire-fighting equipment and facilities, providing training and resources and to meet the administrative expenses of the NSW Rural Fire Service (**RFS**) and does not permit any amendment which would be likely to change this purpose.

In a recent press release, the Greens NSW announced their intention to introduce the Rural Fires Amendment (NSW RFS and Brigades Donation Fund) Bill. The press release states that the proposed Bill will seek to amend the *Rural Fires Act 1997* (NSW) to allow donations received by or on behalf of the Fund during the period from 1 November 2019 to 1 February 2020 to be used to provide support and assistance to:

1. the families of any RFS volunteer killed while on duty;
2. any RFS volunteer injured while on duty;
3. communities, including individuals, who have been significantly impacted by bush fires; and
4. people and organisations providing care to animals injured or displaced by bush fires.

Interestingly, the Greens do not appear to have consulted with Ms Barber in relation to the proposed introduction of the Bill or the purposes for which the funds are proposed to be used, as evidenced by the statement in the press release that "we are open to frank discussions with other parties and Celeste Barber on the final drafting of the bill." Ms Barber also does not appear to have responded to the proposal either in mainstream media reports or on her personal social media feeds.

Whilst the legislative change proposed by the Bill would likely resolve the restrictions in the Trust Deed and allow the Fund to be applied as the donors intended, what is less clear is whether the proposed Bill will actually be passed. As a Member's Bill, it will require the support of at least one of the major parties in the New South Wales Parliament to become law. Even with the requisite support, the legislative process can take a significant period of time and Member's Bills often languish in the process whilst bills implementing government policy are passed.

It therefore remains to be seen whether the Greens' proposal is a political stunt or a genuine attempt to resolve this high profile and challenging issue.

If you would like us to review your founding documents to identify whether you may encounter similar problems please

