



6 July 2017

Senior Advisor,
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2660

Dear Sir/Madam,

This is a submission to the Reform Opportunities Discussion Paper dated 15 June 2017.

This document will respond to the seven issues identified in the discussion paper and will also make some further and miscellaneous comments.

Issue #1 –

A need for strengthened governance arrangements is acknowledged, but this should not be oppressive, especially to small and small-medium NFPs. Whilst registration with the ACNC is appropriate, it is not appropriate that environmental organisations are characterised as charities. The distinction between a charity and a not-for-profit should be maintained.

Issue #2 –

The discussion paper refers to concerns that DGRs are not understanding their role with respect to advocacy. This is said to be a particular concern for environmental DGRs. No basis is identified for the concern. No justification is given for the concern. The source of the concern is not identified. The provision at footnote 19 in the *Income Tax Assessment Act* requires the DGR to have as its principal purpose the protection etc. of the environment. Another principal purpose is the provision of information or education. This involves advocacy. Much – and perhaps all – environmental protection in Australia and overseas is achieved by advocacy at a local, State and/or national level. Protection of the environment is recognised as a legitimate matter of public concern and is often an issue in State and Federal elections. As such, speech on environmental matters is recognised as warranting protection in this context by virtue of the implied freedom of political communications in the Commonwealth constitution. There is no warrant to limit or attempt to limit environmental advocacy, provided the DGR in question is undertaking and complying with its principal purpose. These ends are entirely compatible.

Issue #3 –

The Bob Brown Foundation supports streamlining and simplification of DGR registration application processes. Clearly, more resources need to be devoted to assessment.



Issue #4 – Complexity and red tape created by the public fund requirements
The Foundation makes no comment on this issue.

Issue #5 –

Bob Brown Foundation endorses reviews and assessments of eligibility. However, these must not be oppressive or become oppressive, especially for small organisations.

Annual certification is appropriate.

Issue #6 – Specific listing of DGRs by government

This is opposed. The notion that DGRs need to reapply after five years opens up the prospect of political interference in the process for endorsement. The last thing the DGR sector needs is political interference in the eligibility of organisations for DGR status.

Response to Parliamentary enquiry into REO

Recommendation #1

Agreed.

Recommendation #2

This would be satisfactory, provided it is not oppressive to small ENGOs.

Recommendation #3

No response.

Recommendation #4

This is agreed.

Recommendation #5

This recommendation is mindless and smacks of a political agenda to cause damage to environmental DGRs. What is environmental remediation work? Why is it proposed as necessary that a DGR has to spend 25% of its expenditure from its public fund on remediation work? This will place significant demands on the resources of the organisation and, in any event, is unwarranted. For some organisations, remediation of the environment is their rationale for existence. For many other organisations, environmental protection work takes many forms. To require a proportion of an organisation's resources to go into remediation has the effect of skewing the requirement for protection of the environment contained in the *Income Tax Assessment Act*. This recommendation should be rejected.

Recommendation #6

The ACNC governance requirements cover this.

If the government is serious about placing a limitation on the activities of environmental



DGRs solely because they have a tax-deductible status – which we oppose - it is appropriate that identical limitations are placed upon all companies and businesses in Australia that have the benefit of tax deductibility for expenditure and input tax credits for the goods and services tax. We would certainly like to see administrative sanctions invoked for public and private corporations that engage in activities such as illegal logging, pollution of the environment by oil spills, marine farming waste and the like. We look forward to hearing what Treasury has in mind in the way of administrative sanctions for these sort of activities.

Recommendation #7

This is agreed.

Recommendation #8

This is already a requirement for DGR status.

Recommendation #9

This is agreed.

Further and miscellaneous

The following point are made, principally arising from the fact that tax-deductibility applies not only for DGRs, but also for companies and political donations etc.

1. Many organisations falling within this sphere such as charities, ENGOs and not-for-profits provide critical services that would otherwise be lost or have to be funded by government. As such, there is a strong argument that DGR status for many organisations saves the public purse.
2. It would better serve Australia's national interest if, before considering ideological attacks on the average Australian's right to have donations to environmental organisations made tax-deductible, the following matters are considered in the light of the public interest:
 - tax deductibility for all political functions, donations, advertising or commentaries should be removed from for-profit corporate entities which are based overseas or which have foreign management, for example News Corporation, Chevron or Adani:
 - tax-deductibility for donations and overt political activities should be removed from secretive but overtly political non-government

organisations such as the Institute for Public Affairs and the Sydney Institute unless and until all funding is made a matter for the public record.

- public funding must replace private financing of political parties and entities.
 - all lobbyists ought be registered and each contact with any member of parliament ought to be on the public record.
 - a national independent commission against corruption is established.
3. There is a pressing need for corresponding accountability of businesses, and especially corporations, which achieve tax deductibility for what could only be regarded as highly inappropriate activities. A good example might be the Gunns 20 litigation. Another example might be executives choosing to travel first class on an airplane. Yet another example might be payments for lobbyists. None of these type of activities – and there are many - should be subsidised by taxpayers.

On behalf of Bob Brown Foundation



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