

SUBMISSION BY – John Hayward

Summary of consultation questions and Submissions

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?*

SUBMISSION 1. – DGR'S must be a registered and Government approved charity and must provide details of the charity and details of where funds are sourced and details of amount and where money is spent. There must be total transparency and at least 60% of funds collected must go to end use. That is not more than 40% goes to administration costs such as wages, rent, etc. A DGR must not apply to self-interest, lobby groups, such as environmental groups whose sole purpose is to oppose developments and spend little or no funds on environmental remediation. These groups can collect donations and use those funds as they see fit, but are not a registered charity and must not be exempted from paying taxation.

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

SUBMISSION 2. – All should meet the requirements, and there needs to be total transparency and reports should be public documents. If charities are subsidised by tax payer funds, via government grants, funding by taxation relief, they must be transparent and available for public viewing on government web sites. Funds must comply with all legislation and should demonstrate that more than 60% of funds are going to government approved legal purposes. All funds must be accounted for and must go to legal and approved destinations. If not than government funding or taxation relief must be withdrawn.

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

SUBMISSION 3 –

No, as should have total transparency to prevent opportunity for corruption or illegal activities being undertaken.

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

SUBMISSION 4 – The ACNC should require all charities to be registered and submit clear annual statements as per normal business statements such as balance sheet, profit and loss, statement of cash flows, where funds are from and where they go as well as all operating costs. The ACNC should also have powers to require special reports at any time on a DGR's activities to gain assurance that activities are undertaken in a legal and proper manner.

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

SUBMISSION 5 – The AIS should be more detailed as per submission 4 above. Registered charities that receive taxation relief must be legal and transparent and be

shown to help communities or environment in a positive way and also not focus on select groups. The ACNC must be provided with the level of information that meets these requirements. A DGR that receives public funding and has a role to protest or operate in a manner that is illegal or disruptive such as environmental groups, religious or secular groups should have funding denied and reimburse government.

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

SUBMISSION 6 - Annual information statements can be simple and in a special format (proforma) that is not a burden to maintain, such as statutory reporting required for small businesses who also do not have the facilities or timing for comprehensive reporting. As above in Submission 4 reports should be based on simple statutory reporting formats which would emanate from a simple bookkeeping process and include the following;

- Statement of activities throughout the year – Purpose and achievements.
- Source of funds and use of funds
- Balance sheet
- Profit and loss statement
- Plan of activities for following year
- External audit report to demonstrate that reports are accurate and are a true representation of the DGR's activities and financial activities and position.

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?*

SUBMISSION 7 - Should be under the control of the ATO and be required to meet the ATO's requirements, in terms of timely reporting and compliance to Australian law. The ATO must have the resources to be able to manage the number of DGR's in an effective and efficient manner.

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?*

SUBMISSION 8 - I have no problem with public funding for multiple categories, provided it is transparent and legal and as above, all information is provided on where the funding comes from and where it is spent. This is the only way that corruption and illegal activities are stopped from occurring. The aim of charities should be clearly defined and must demonstrate that the majority of the funding is actually going to a worthwhile community activity such as helping the sick, destitute, homeless or improving the general environment.

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?*

SUBMISSION 9 - I do not want to see a complicated review process that does not achieve the basis aim to ensure DGR's are properly registered and undertake the charity work that they claim to be undertaking and that it is carried out in a lawful, efficient and effective manner and provides clearly visible benefits. Maybe the annual certification is just a statement to say that the ATO or ACNC are satisfied that the DGR has provided all the required reports in an acceptable form and in the required time and are operating in accordance with their charter of activity in a legal and ethical manner.

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

SUBMISSION 10 - The people who are responsible for managing the DGR such as directors or managers to ensure that they are a fit and proper person to be managing the activity in a legal, efficient and effective manner. The annual and other reports provided must clearly show the activities of the DGR, where the funds come from and where spent. Reports should also show who directors and managers are, background, experience and role in the organisation.

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?*

SUBMISSION 11 -

Yes and should be reviewed at least every 5 years and maybe others that have specific short term purposes less than 5 years, 3 years or yearly. May consider different provisions for different DGRs, depending on size and activity.

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?*

SUBMISSION 12 - I believe that Environmental groups should have at least 50% or higher of their funding used for environmental remediation and funding should not be used in an illegal or disruptive manner such as for political lobbying or activities to frustrate or stop development projects. They must comply with the law and use the same process as the rest of the community to lodge submissions to support or not support projects. These groups clearly rely on using the media to influence political decision making. Public funding should not be used for this purpose. The Environmental Defenders office (EDO) is a good example of this, where public funds are provided to assist special cases defending the community, but are used by anti-development groups to continue with appeals and submissions to delay or stop projects and also gain a level of media attention. In most of these cases taxpayers funds provided by the NSW Government is used to appeal against government approvals which have been undertaken in accordance with the law in a manner that is open to public submissions.

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?

SUBMISSION 13 - Yes, an environmental DGR must be for positive purposes to improve the environment by undertaking actual environmental work such as monitoring, cleaning up rubbish or improving disturbed areas, but should not be for the purposes of unlawful activities such as damage of property, illegal and unauthorised entry to properties or any act to gain public press. Any DGR that carries out these type of illegal or disruptive activities should not be a registered charity and should not be receive any form of government funding or taxation relief.

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