



Recognising and upholding excellence in local government



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I am writing to you in my capacity as Secretary of OSCAR (Organisation Sunshine Coast Association of Residents Inc). OSCAR is the peak organisation representing almost 40 resident and community organisations on the Sunshine Coast - from Noosa to Landsborough and from the coast to the hinterland. Several of our members have DGR status.

OSCAR would like to make the following submission to the Tax Deductible Gift Recipient Reform Opportunities Discussion Paper.

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?*

OSCAR Response

This proposal would appear to be unnecessarily bureaucratic. The discussion paper has not made a case for change. It has not raised any issues of financial malfeasance, criminality or tax avoidance that would concern the community. The paper also does not disclose that there was a dissenting report into the REO report to Parliament.

In the latter part of the discussion paper, there is reference to reducing "red tape". This proposal to force all DGR status groups to apply for "charity" status is an example of red tape for all the wrong reasons. NFP groups who have DGR status currently would have to reapply when they have already gone through the process to be granted DGR status.

However, it would appear that the government wants to control the advocacy that community groups undertake. Is the government concerned that some groups are being too effective in bringing issues and concerns to the public forefront?

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

OSCAR Response

Most community groups are run by volunteers and to ask them to apply again, for charity status is an imposition that many would not be able to fulfil. They have already gone through the process of achieving DGR status once and then the government expects them to go through another process to apply for Charity status. If as the discussion paper suggests it

takes up to twelve months to be granted DGR status now, those groups would be “in limbo” until charity status has been approved. This organisation is aware of here it has taken 2 or more years for such status to be approved. The question to the government is “does it wish to see some groups, particularly smaller ones with all volunteer staff fall away or give up through increasing red tape?”

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

OSCAR Response

OSCAR is an advocate of transparency and accountability within all levels of government, private ancillary funds, community organisations and DGR s. Any organisation in receipt of taxation relief should be prepared to list names and positions of current Office Bearers, without private contact information being publicly available. Any contact must be through the official contact details of the organisation.

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

OSCAR Response

This question purports to be referring to registered charities. However, from reading the discussion paper, this question presupposes that the government has made a decision in relation to making all DGR groups apply for charity status. If that is the case why ask people to respond to the discussion paper?

If an organisation has been given “charity or DGR status” and completed the necessary paperwork required for such status (quite onerous in itself) there should be no additional reporting requirements imposed upon the group other than that required as part of the approval, unless the ATO is notified that the group is acting outside its charter/purpose, and unethically or illegally.

Furthermore, from the discussion paper, it would appear that this question relates to the advocacy activities of community groups generally and environmental groups in particular. At no point in the discussion paper is there any discussion about what advocacy activities are unacceptable to the current government. Such a move would be left to the ACNC, a government instrumentality reporting to the government and where there is no discussion with community groups.

If one considers the definition/criteria relating to environmental groups DGR purpose, as per the Income Tax Assessment Act 1997, quotation below, major environmental groups’ advocacy certainly meets this criteria. For example the advocacy associated with protection of the Great Barrier Reef.

“Subsection 30-265(1) of the Income Tax Assessment Act 1997 - Its principal purpose must be: (a) the protection and enhancement of the natural environment or of a significant aspect of the natural environment; or (b) the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.”

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

OSCAR Response

As we do not accept the premise of question 4, we do not support this suggestion.

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

OSCAR Response

As we do not accept the premise of question 4 we do not support this suggestion. However, if the government continues with this approach, then the most appropriate vehicle and one that does not create any more “red-tape” would be that organisations with DGR status send their endorsed Annual Report presented at the annual AGM to the government.

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?*

OSCAR Response

It is assumed that the original reason for establishment of the 4 DGR Registers was to ensure that the area in which the group seeking DGR status, was undertaking work that was achieving the purpose as set out in the Income Tax assessment Act in relation to the discipline/subject area of a particular DGR category. With all due respect to officers of the ATO, one would question their ability to verify or validate a specific applicant group from one of the 4 DGRs. Can the ATO ensure that any ATO officer allocated to a specific application has the content knowledge appropriate to that particular application?

One would expect the ATO to ensure that not only is the application valid from a taxation perspective, but that it also achieves the Purpose of the Category to which the application relates.

The discussion paper indicates that there are different applications for each of the categories and the time taken varies and can be lengthy. OSCAR suggests the following:

1. Forms across the categories are standardised allowing for some variance in the different categories.
2. Time frames are set for assessment of applications by discipline specialists and on-sending to the ATO for properly completed applications.
3. Senior departmental officers are delegated the validation process within the categories, removing the need for Ministerial sign-off.
4. Time frames are set for the ATO to complete the process of approving complying applications.
5. Departments ensure the human resources are allocated to the relevant departments to be undertake these processes in a timely 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?*

OSCAR response

No response as this is outside our experience.

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?*

OSCAR Response

It is not inappropriate for formal reviews to be undertaken, but these should be undertaken only after DGR status has been in operation for a period of 5 years. Which groups within a category are to be reviewed should be determined via random sampling across each DGR category. As one of the goals of the discussion paper recommendations is to reduce red tape annual certification is the imposition of additional red tape. Groups could instead be asked to include some form of certification in their annual reports presented to the group's AGM and forwarded electronically to the ATO.

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

OSCAR Response

If such a review program was initiated, groups should be randomly selected.

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?*

OSCAR Response

This proposal is preposterous "specifically listed DGRs"! How would such DGRs be identified? It would appear from the REO report that the groups to be targeted have already determined and that this whole process is all about restricting, hobbling, devaluing and targeting the work community and environmental groups with DGR status undertake.

If the government wishes to increase "Red tape" on volunteer community groups, then implement this proposal! If reviews are to be undertaken, then they should apply across the board to all groups with DGR status and all charities. To do that would be a massive task and therefore demonstrates how ridiculous this proposal is. If the government is intent on taking such action, it should be a minimum of 10 years and apply to all DGR groups and all charities.

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?*

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The Taxation Assessment Act does NOT make any reference to the form of action environmental groups should take. Many allocate a high percentage of their income to rehabilitation as that is a major purpose for their formation. Others may take on the "protection and enhancement of the natural environment or of a significant aspect of the natural environment, in different way", including education and research.

“Prevention is better than cure” is used in many forums. Surely in terms of the environment, it makes more sense environmentally, economically and culturally to prevent degradation in the first place rather than have to pay for rehabilitation post degradation. The same argument is made by applying the “precautionary principle” as applied in science.

Recently in the Queensland Healthy Land and Water Awards, groups were recognised for “protection of a significant aspect of the natural environment”, where in one instance a group campaigned for changes in a major road project on the Sunshine Coast that saw 700+ hectares of old growth forest (including at least one 1000 year old tree) protected and transferred to National Parks. Through their campaigning a major road intersection will see an Australian first use of a design that reduces the forest loss from 100 ha to 6ha, while returning the remaining forest to the community through National Parks designation. What this group has achieved is amazing and yet if they were to apply for DGR status they would be excluded because they have not done any “rehabilitation”! Clearly the government has another agenda with this proposal! Is it a means of silencing any group that has different ideas to those of the government?

One might ask “whatever happened to democracy?”

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?*

OSCAR response

Recommendation 6 para 77 of the discussion paper states “Under the proposal, environmental and other DGRs must not have a disqualifying purpose, which includes the purpose of engaging in or promoting activities that are unlawful or contrary to public policy, or the purpose of promoting or opposing a political party or a candidate for political office.”

This is the where this whole discussion paper is heading - under existing laws a DGR can lose its status if it participates in unlawful activities, so obviously this charade (this discussion paper) is summed up in the last sentence -- “the purpose of promoting or opposing a political party or a candidate for political office”. Again one would ask – what has happened to democracy?

Surely, in fulfilling the role of “protecting the natural environment or a significant aspect of it” as per the criteria below:

“Subsection 30-265(1) of the Income Tax Assessment Act 1997 - Its principal purpose must be: (a) the protection and enhancement of the natural environment or of a significant aspect of the natural environment; or (b) the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.”,

there may be times when the only way to achieve this is to take political action. Again one would ask –how democratic is it to sanction such action? Surely it is a democratic right to take action within the law.

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