

I feel like charity law has fallen out of step with what my peers and I care most about, and that my generation doesn't have the same kinds of philanthropic organisations supporting us and our values as older generations do.

To achieve goals like growing donations and increasing community engagement, charity laws should build incentive structures that foster organisations that work on the kinds of issues that younger generations of Australians care the most about.

I would like to raise with the Inquiry the need to realign DGR status with the values of today's Australians (2.ii, 3.ii, 5, 6) and allowing Public Benevolent Institutions to properly support their communities (2.iii, 3.i).

Although I'm a member of the community, not a charity, my views are representative of many of my peers. Further, I think the Productivity Commission should weigh the views of community members. Community members aren't bound by constitutions to make particular kinds of arguments and, ultimately, its members of the community like me that Government wants to donate more and be more involved in community organisations.

I want to donate money to reduce the risk of catastrophic disasters, but because of the limited availability of DGR status, there aren't that many organisations that work in this area and those that do can't accept tax-deductible donations.

For instance, I care about the work of the International Campaign Against Nuclear Weapons (ICAN). I think the risk of nuclear weapons is largely ignored by society, despite it being catastrophic. Some experts think the yearly chance of a nuclear war could be as high as 1% – which seems scarily-plausible with the situation in Ukraine and elsewhere. If I want to live a long life, and have kids who grow old, a 1% chance each year of a nuclear war that kills billions is totally unacceptable. Despite ICAN winning a Nobel Peace Prize for its works, and being able to accept tax-deductible donations in many other countries, it can't do that in Australia.

ICAN is just one example. There are smaller organisations, like the Alliance to Feed the Earth in Disasters (ALLFED) who are similarly trying to reduce the risk of nuclear war and other global catastrophes, similarly accept tax-deductible donations in other countries, but also can't get DGR status in Australia.

I don't understand why a "defence charity" can have DGR status for the repair of war memorials (Tax Act 5.1.3) or the recreation of members of the armed forces (Tax Act 5.1.2), but not for the prevention of a nuclear war.

Overall I think that organisations working to reduce global catastrophic risk should have DGR status. Nuclear war is one example of such a risk, but pandemic prevention and catastrophic natural disasters should also be included. More work being done in these areas could have huge benefits for Australia and the world. I care about these issues – and so do my peers. We want to organise around them in our community and donate money towards them – but without them being included as a DGR class, that's really difficult.

The way Public Benevolent Institutions are regulated is outdated and should be absorbed into the Charities Act. The Law Council of Australia and the ACNC are regularly debating the meaning of the cases from the 1930s and 1940s that define how PBIs can operate. This is not helpful for organisations, communities, or their ability to do charity in an impactful way. The legal conversation has lost track of the policy intent.

An obvious example of this lack of focus on outcomes is the dispute over the meaning of “dominant purpose”. Without re-stating legal arguments, the ACNC seems to think that a charity that is a PBI has to have its PBI-purpose as its “overriding” purpose, and therefore it can’t also have other purposes from the Charities Act. The Law Council thinks this reading is a misunderstanding of the meaning of “dominant purpose” and that having a purpose from the Charities Act shouldn’t disqualify a PBI.

This is just one example, and who is “right” doesn’t matter. What matters is that having critical definitions about how a charity can do its business buried in arcane case law that doesn’t have a clear reading and isn’t aligned with the Government’s policy intent is not efficient or effective.

In the case of “dominant purpose”, it’s clear that Government policy has no concern with a charity pursuing multiple purposes. This is clear because the Charities Act allows a charity to have multiple purposes. This is common sense – no public policy purpose is served by requiring separate organisations for separate charitable purposes (indeed, the administrative inefficiencies that it creates are contrary to good public policy). And this has real-world implications for how PBIs can engage in fundraising, do impactful work, and support their communities.

“Dominant purpose” is just one example of common law that is no longer helpful. There is also confusion around other phrases like “direct relief”.

The Productivity Commission should recommend amendments to the Charities Act to override the common law and create a new charity type that is not mutually exclusive with other charity types. The precise details can be resolved by ACNC-led consultation and Government decision.

Australia has the potential to create a world-leading philanthropic sector. We already know that the most effective charities can have a substantially greater impact than the average charity, but currently, there are no mechanisms in place to incentivise impact or empower donors to choose the best charities based on their impact.

By implementing the recommendations outlined in this submission, Australia can become a global leader in philanthropy. This could reverse the brain drain and attract more impact-focused charities to Australia, further enhancing the country's ability to make a positive impact on the world.