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Productivity Commission Inquiry 2024 – Future foundations for giving

Bicycle Network thanks the Productivity Commission for the opportunity to make a submission to the *Future foundations for giving* inquiry.

It is encouraging to see that the inquiry proposes reforms to philanthropy in Australia, and we commend the draft report's recommendations for "changes that will allow charities such as peak bodies focused on advocacy and prevention to obtain DGR status".

Bicycle Network is Australia's largest bike riding membership-based organisation, representing riders of all types, from their first bicycle to their last.

We are a not-for-profit organisation with a 49-year history of advocating on behalf of people who ride.

Our vision is a healthy, sustainable society, where everyone can safely ride a bike every day. Our purpose is to promote the health of the community by encouraging more people to ride more often.

We believe bike riding delivers benefits to the community in three key areas:

- health promotion (mental and physical)
- disease prevention (obesity, diabetes and heart disease)
- sustainable transport (environment and infrastructure)

And we seek to achieve this through our advocacy for the delivery of cycling infrastructure at local, state and federal levels; providing rider insurance and legal support; organising mass participation events, and operating community education programs.

Bicycle Network is an active example of the Productivity Commission inquiry's premise that "the DGR system creates inefficient, inconsistent and unfair outcomes" and that "charities that have multiple purposes may need DGR endorsement for each eligible activity, which makes accessing DGR status complex".

Our organisation is at a financial crossroads. The income we have relied on from government grants and events is declining, yet we are hampered from attracting private wealth that could help us continue to work to achieve broad and significant benefits to the community.

The current system is too restrictive for organisations such as ours that improve public health through a diverse range of activities. There is an urgent need for reform that allows not-for-profit groups without the ability to access expensive legal and financial advisors to openly and in good conscience obtain DGR status and contribute to a better society.

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Our history

Bicycle Network was established in 1975 as Bicycle Institute of Victoria, a not-for-profit, member-based, bike riding organisation. Its goal was to bring the bike riding community together and generate interest in the health and social benefits of riding. The organisation has had several name changes including Bicycle Victoria and Bicycle Network Victoria.

We developed our original mission to “get more people riding” in the “Life Be In It” era of the mid 1970s, when research showed that car-reliant, sedentary Australians were at risk of obesity, heart disease and diabetes.

Our founders understood that getting more people on bikes would help them become active, discover new ways of exercising, and offer a healthier mode of getting to their destinations.

In the almost 50 years since our inception, our disease prevention and health promotion messages have not changed, but as our organisation has evolved and society has understood the mental health benefits of riding and the environmental benefits of reducing carbon emissions through active transport, our portfolio of work has grown.

Our advocacy

Bicycle Network has created high-profile, nationally and internationally recognised cycling events including the Great Victorian Bike Ride, Around the Bay and Peaks Challenge. The impetus behind these events, now celebrating their 40th, 30th and 12th anniversaries, has always been to encourage more people to enjoy and share the experience of bike riding.

In addition to delivering messages about the potential of bike riding to increase health and prevent disease, these events have generated widespread, measurable economic and social benefits to Victoria over four decades. They have brought tourism to regional towns, created new businesses in metropolitan and regional Victoria, reinvigorated existing businesses and opened conversations about the mental, social and physical benefits of bike riding.

As a not-for profit organisation, all income from Bicycle Network’s key events, smaller events and road safety initiatives is directed to our advocacy and community work.

We also work with local government to provide transport and data surveys that help to inform their policies, we manage and deliver bike-parking (Parkiteer) cages at train stations, and bike-parking and storage facilities in private and public locations across Victoria. We run Swapping Seats campaigns to educate truck drivers and bike riders about safety for major government departments and authorities.

This financial backbone allows us to work with policy makers, government agencies, university researchers and local, state and national infrastructure delivery teams to advocate for law and policy change that improves facilities and conditions for bike riders.

Every area of our operations helps spread messages about the health, environmental and social benefits of bike riding.

Our work supports students in primary and secondary schools (Ride2School, Open Streets, Active Maps), youth organisations, underprivileged and marginalised groups including migrant and refugee women, First Nations students, LGBTQI students and more. We are aligned with Bicycle User Groups in local government areas, and we support and enhance their grassroots work for change, which improves the safety, accessibility and amenity of their communities.



Our legal challenge

Bicycle Network Victoria sought Deductible Gift Recipient status from the Commissioner of Taxation in 2009, but its application was rejected. The organisation made an appeal against the decision in 2011, but the appeal was not successful.

<https://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/AATA/2011/444.html>

The Commissioner found, and the Administrative Appeals Tribunal upheld, that Bicycle Network was “not entitled to be endorsed as a health promotion charity under s 123D of the FBTA Act”.

We became Bicycle Network Incorporated in 2011 and were registered under the Australian Charities and Not-for-Profits Commission (ACNC) in 2012.

In his grounds for refusal of Bicycle Network’s DGR application, the Tax Commissioner supported our registration as a charitable institution:

“In view of my findings, I am satisfied that the purpose of Bicycle Victoria is to benefit the general community. That leads to the next issue which is whether the promotion of cycling is a charitable purpose ...”

“The fact that cycling may be a sport in some instances and a leisure activity in another does not characterise Bicycle Victoria’s purpose as being for sporting purposes or for recreational purposes as such. It is for the purpose of promoting cycling in all its forms and for the overall purpose of promoting fitness. That is a purpose that has been recognised as charitable. Therefore, I am satisfied that Bicycle Victoria is a charitable institution.”

However, he found that:

“... prevention and control of disease is a consequence of Bicycle Victoria’s principal activity which is the promotion of cycling and of physical fitness. Prevention and control of disease in human beings is not its principal activity.”

“Consequently, Bicycle Victoria is not a charitable institution whose principal activity is to promote the prevention or control of diseases in human beings. It is not entitled to be endorsed as a DGR for the operation of a fund, authority or institution under s 30-120(a) of ITAA97 and is not entitled to be endorsed as a health promotion charity under s 123D of the FBTA Act.”

The loss of this case was a major blow to our organisation and, 13 years later, by limiting our access to giving foundations, it has ramifications for the depth and breadth of the work that we do in areas that could generate public benefits.

A changed landscape

Since the COVID-19 pandemic, there have been significant impacts on the way our community works and plays, and rising inflation has tightened the events market. Fewer people are entering mass-participation rides like ours and many events were cancelled in 2023. (eg Spring Cycle, Fitz’s Challenge, Noosa Classic).

These changes have brought our organisation to a financial turning point. Our events income has declined as government expenditure (particularly in Victoria) on public active transport has been significantly reduced. Our Ride2School program, which previously received \$1.4 million in funding over two years, must now compete for a reduced [Kids Active Travel Program](#) worth \$680,000 over two years.



Government grants and sponsorship for our advocacy, education and behaviour change initiatives have become substantially more difficult to acquire due to the Victorian Government's strained economic circumstances. And our vital advocacy work is under threat, at a time when we believe our communities, suburbs and cities need it most.

Without DGR endorsement, Bicycle Network finds it difficult to attract public and private donations and we are also unable to seek money from private or public ancillary funds, which are only able to distribute or grant funds to "Item 1 DGRs".

To raise money for our Ride2School program, we have established a fundraising campaign through the Australian Sports Foundation, which has DGR status and is able to offer it to groups for "sporting purposes". While this platform has been successful to some extent, there are administrative and user-experience inefficiencies that limit its effectiveness, and the donations received are from multiple donors and of significantly smaller amounts than might be anticipated from larger charitable funds.

Our experience with the ASF program has demonstrated that there *are* members of the community and potentially high-wealth donors willing to help fund our work, but they are restricted by our taxation status.

The need for a changed framework

Under the current DGR framework, Bicycle Network is also unable to gain rent subsidies, which would reduce our operating costs. It is also difficult for us to obtain non-government grants from ancillary funds that would be willing to support high-profile campaigns in important areas such as road safety, riding health and safety and community and behaviour change education.

Our work best aligns with the "Health" category. But, as outlined above, this is the area in which we previously failed to gain DGR status.

We believe there are other areas of our work in environmental and sustainability advocacy that may align with other DGR categories, ie "Environment" and some elements of the "Education" category, however, the existing system prevents us from accessing more than one type.

A reformed, less complex DGR framework, which allowed organisations providing public benefit in multiple areas would allow not-for-profit organisations such as ours to seek diverse philanthropic funding for the important community programs and advocacy campaigns the aligned with their social priorities.

Bicycle Network is aware of several "like" organisations that are endorsed as DGRs (some examples are listed below). The similarities in or work and health outcomes and achievements are significant, and we see these examples as another stark illustration of the inconsistencies within the current system.

- **Life Be In It Australia Ltd** is endorsed as a DGR from **1 July 2009**. It is covered by Item 1 of the table in section 30-15 of the *Income Tax Assessment Act 1997*.
- **Victoria Walks Inc.** is endorsed as a DGR from **30 March 2009**. It is covered by Item 1 of the table in section 30-15 of the *Income Tax Assessment Act 1997*.
- **The Trustee for Amy Gillett Foundation** is listed by name as a DGR from **14 September 2007**. It is covered by Item 1 of the table in section 30-15 of the *Income Tax Assessment Act 1997*.
- **Bicycle New South Wales Environmental Trust** is endorsed as a DGR from **1 January 2024**. It is covered by Item 1 of the table in section 30-15 of the *Income Tax Assessment Act 1997*.



A way forward

Bicycle Network's reach within the community is multi-pronged and has many trickle-down community benefits as people adopt healthier disease-preventing habits, improve their mental health and social connections, and reduce their carbon footprint.

Our organisation has developed a reputation for its advocacy work, which includes expertise in accident prevention, riders' legal representation, submissions to decision makers backed by quality research and data, and important infrastructure and policy advice. We are widely sought to provide media and public commentary about the benefits of bikes and bike infrastructure to our communities.

Our circumstances, including our historic legal battle with DGR status and our evolution as a charitable organisation, provide an example of the complexity of gaining DGR status for ["entities that do not neatly or easily fit into a single-endorsement category"](#).

The "like" organisations listed above also illustrate the inconsistent outcomes within the current framework and some relate to the Inquiry's view that: ["Specific listing in legislation can be used to gain DGR status for entities that do not neatly or easily fit into a single endorsement category and can be a way to address unforeseen or exceptional circumstances."](#)

Change *is* coming to the transport choices that people can, and need, to make.

We believe our work not only supports the community of people who ride bikes for myriad reasons, but as new types of bikes (e-bikes, e-scooters, cargo bikes etc) become increasingly popular and practical in populous areas, and as more people see the health, economic and environmental advantages of riding, our work helps to reinvent and futureproof cities, towns, suburbs and neighbourhoods.

And, as the media and governments increasingly call on us to contribute to the national conversation about the challenges and opportunities of growing mode shift, our work will continue to be of vital importance to the wider community.

Like all not-for-profit organisations, we are under-resourced, and under equipped to deal with the legal efforts needed to seek DGR status, and, as acknowledged by the Inquiry, ["the existing process lacks transparency, is time consuming for charities seeking endorsement and can lead to inconsistent outcomes. Access to decision makers can be an important factor in an entity being specifically listed"](#).

Our people are constantly stretched to their limits, but they work with us to achieve what we believe is a greater good.

We welcome this Inquiry's intent to find a way to make our work, and the work of other organisations that strive to achieve benefits for the wider community, financially sustainable.

If this responsibility cannot be supported by government, then we must find a way to create a more accessible and workable means for not-for-profit organisations to seek support through private wealth organisations that, like us, aim to create a better society.

