

Senior Adviser  
Individuals and Indirect Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600  
DGR@treasury.gov.au

2 August 2017

Dear Sir/Madam,

**RE: Submission in relation to Tax Deductible Gift Recipient Reform Opportunities Discussion Paper - 15 June 2017**

## 1. INTRODUCTION

Thank you for the opportunity to respond to the Discussion Paper "[Tax Deductible Gift Recipient Reform Opportunities Discussion Paper 15 June 2017](#)". This submission has been written by the [Coalition for Community Energy](#) (C4CE) and is supported by the following organisations:<sup>1</sup>

- [Community Power Agency](#)
- [Alternative Technology Association](#)
- [Total Environment Centre](#)
- [Hepburn Wind](#)
- [Geelong Sustainability](#)
- [Surf Coast Energy Group](#)
- [Central NSW Renewable Energy Cooperative](#)
- [Energetic Communities](#)
- [Starfish Initiatives](#)
- [Zero Emissions Noosa](#)
- [Renewable Albury Wodonga Energy](#)
- [Citizens Own Renewable Energy Network Australia \(CORENA\)](#)
- [Coffs Coast Climate Action Group](#)
- [Beyond Zero Emissions](#)
- [Pingala](#)
- [Clean Energy Association of Newcastle and Surrounds \(CLEANaS\)](#)
- [Mount Alexander Sustainability Group](#)
- [Wodonga Albury Towards Climate Health \(WATCH\)](#)
- [Yarra Community Solar](#)
- Augusta Margaret River Clean Community Energy Incorporated (AMRCCE)

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<sup>1</sup> Note this submission does not necessarily represent the views of all C4CE partner organisations.



## 2. ABOUT COMMUNITY ENERGY

C4CE defines community energy projects as

*“...the wide range of ways that communities can develop, deliver and benefit from sustainable energy. It can involve supply-based projects such as renewable energy installations, storage, and demand side projects such as energy efficiency and demand management. Community energy can even include community-based approaches to selling or distributing energy.*

*Community energy projects encompass a variety of technologies and activities across a range of scales, determined by community needs, availability of local natural resources, technologies and funding, and community support.”*

([National Community Energy Strategy](#) Summary, 2015)

There are now more than 90 community energy organisations developing community energy initiatives across Australia. These initiatives include but are not limited to:

- Fundraising to put solar on a community buildings such as child-care centres, a disabled riding school, arts centres and more.
- Public education initiatives that increase local understanding of solar, storage and the environmental impacts of different energy technologies.
- Working to support Aboriginal communities to install solar and storage.
- Developing community-owned solar, pumped hydro, bioenergy or wind projects.
- Developing and implementing Zero-Net Energy town plans
- Undertaking local energy efficiency programs for local businesses and households
- Working to establish a micro-grid in a community
- Community battery and solar bulk-buys for households and businesses in a community.

These initiatives have significant environmental benefits particularly in the form of reduced greenhouse-gas emissions. They can also have social and local economic development benefits.

## 3. ABOUT THE COALITION FOR COMMUNITY ENERGY

The Coalition for Community Energy (C4CE) is a network of 90 organisations working to grow a vibrant community energy sector in Australia.

The organisations involved in C4CE range from community energy groups, organisations set-up to build the capacity of and support community energy organisations, others are councils, government agencies, businesses, start-ups and more. The majority of C4CE partner organisations are not-for-profit, many are registered as charities and a few have DGR status through the Register of Environmental Organisations. However, many organisations involved in C4CE and working to grow the community energy sector in Australia, are concerned with some of the proposed changes outlined in the Discussion Paper “Tax Deductible Gift Recipient Reform Opportunities Discussion Paper 15 June 2017” whether they have DGR status or not.



The majority, if not all not-for-profit organisations involved in C4CE have purposes related to achieving environmental sustainability outcomes. A few purpose statements are included below as indicative of the broader community energy sector:

- Mount Alexander Sustainability Group (DGR registered organisation):

*The principal objective of the Association is to protect and enhance the natural environment by promoting environmental sustainability within the region of Mount Alexander so that (1) the needs of the present can be met without compromising the air, water, soil or energy resources available to future generations, and (2) an example is set which other regions may choose to follow. Specifically, in pursuit of this principal objective it will aim to: · significantly reduce the region’s contribution to greenhouse gas emissions · assist residents to respond to the changing world by using natural resources wisely · reduce reliance on non-renewable sources of energy · protect and, where necessary, restore and rehabilitate the natural environment where it has been degraded The secondary aims of the Association are to protect and, where necessary, enhance the built environment, and to help build and nurture a community in which relationships, social justice and creativity are highly valued.*

- Community Power Agency (registered charity):

*The purpose of the Community Power Agency Co-operative Limited is to support communities to actively participate in ecologically sustainable development that benefits the natural environment, builds strong communities, and creates resilient, diversified local economies.*

*Specifically, the Community Power Agency will support community participation in renewable energy and energy efficiency initiatives and work to create the conditions to foster a vibrant community renewable energy sector in Australia and establish and maintain a public fund to be called the Community Power Agency Fund to support the activities of the co-operative.*

- Alternative Technology Association (DGR registered organisation):

*“The ATA exists to enable, represent and inspire people to live sustainably in their homes and communities.”*

#### 4. WHY ADVOCACY IS IMPORTANT FOR COMMUNITY ENERGY GROUPS

Without engaging in advocacy community energy groups will continue to be unable to reach their full potential and most effectively achieve their purpose. The rules, regulations and policies governing Australia’s energy system were established in a different era, before the widespread adoption of decentralised clean energy technologies such as solar, storage, smart meters, smart appliances and more. As such, many of the approaches to clean energy provision that community energy groups are looking to implement face significant regulatory, policy and market barriers.

Approximately 35% of Australian households cannot put solar on their own roofs as they are renters, live in apartments or are low income. Members of C4CE have identified potential models that can help service these Australian households, models that work successfully in other countries, but are challenging to implement in Australia.

One example of this is the Solar Savers model. Pioneered by C4CE founding member Moreland Energy Foundation in partnership with Darebin Council, the model allows pensioners to receive



zero-upfront cost solar, that they then pay-back through an opt-in charge on their council rates over 10 years. Moreland Energy Foundation worked with the households to ensure they were able to access sustainable solar in such a way that they were better-off from day-one (that is the rate repayment was less than their energy bill savings). This was so successful that community energy groups and councils advocated for funding from the Victorian Government to roll-out the program across the state - now 22 councils in Victoria are implementing this, providing access to solar for low-income pensioners.

Unfortunately, the Local Government Act in NSW is written slightly differently and as such the Solar Savers model is currently illegal in NSW. C4CE members have undertaken research, undertaken case-study examples and are now advocating for the small legislative change needed to enable Solar Savers to work in NSW. This advocacy is absolutely in keeping with the charitable purpose of community energy groups.

Without this type of advocacy millions of households will continue to be able to access solar. Widespread national installation of rooftop solar has many benefits including:

- Reduction in carbon emissions
- Providing energy back into the grid at times of peak demand
- Helping to stabilise electricity prices, benefiting all Australians
- Reducing the energy bills of the household

Engaging with policy debates, consultation processes, market reforms and more are essential activities for the community energy sector and community energy organisations, as the outcomes of these policy and reform processes materially affect how well community energy organisations can achieve their purpose. Furthermore, community energy groups have significant expertise and experience that should be considered in the formation of policy and regulations.

## 5. RESPONSE TO CONSULTATION QUESTIONS

### Focus on activities rather than purpose

In the discussion paper both charitable purpose and charitable activities are raised. Charity law focuses on purposes and not activities, and the DGR framework generally has a focus on purpose rather than activity. The current legal regime is robust in outlining the purposes for which charities can legitimately be established, while ensuring charities must demonstrate that they do not have a 'disqualifying purpose.' Furthermore, the regulatory environment does account for other, relevant laws, which further specifies prohibitory conditions on DGRs in pursuing their purpose.

A number of the consultation questions in the discussion paper refer to establishing a DGR regulatory framework with an activity-level focus, rather than a focus on purpose and outcomes (questions 4-6; 12-13). We strongly oppose any shift in charities law that focuses on activities rather than purpose, and as such disagree with the proposals associated with these questions.

We are particularly concerned about the focus on Environmental Organisations. In C4CE organisations regularly work in collaboration, creating an ecosystem that leads to impact and outcomes such as greater uptake of solar, energy efficiency measures and thus reduced greenhouse gas emissions. For example certain organisations focus on program delivery on the ground, while others focus on growing capacity of organisations, training and advocacy and some do all of the above. Having a requirement for all individual organisations to undertaken practical initiatives, shows a deep lack of understanding about how organisations work collaboratively to achieve their



charitable purpose (in this case environmental outcomes). Indeed, C4CE was established to better facilitate this collaboration, so that community organisations could more efficiently and effectively achieve their charitable purpose given the limited resources available.

## **Erosion of the Right of Charities to Undertake Advocacy**

Advocacy plays an important role in helping community energy organisations achieve their purpose of developing and implementing sustainable energy solutions. Australian charities can undertake advocacy to further their charitable purposes, for example through supporting or opposing relevant government policies and decisions. The importance of this was recognised by the High Court in the *Aid/Watch* decision of 2010, where the Court held that charities undertaking advocacy was essential to Australia's constitutional system of parliamentary democracy. This decision was subsequently legislated in the Charities Act 2013.

As seen in the example above on making it easier for a community to implement innovative models of sustainable energy that both protect our environment and support Australia's most vulnerable households access the benefits of clean energy, community energy organisations and their supporters are in the best position to determine what approaches are most appropriate in order to achieve their purpose. Therefore any new restrictions and limitations are strongly opposed on the basis that they would impose new and unjustified red tape which will make it harder for community energy groups to achieve their purpose.

## **Proposed introduction of onerous compliance measures**

We welcome and accept that the transparency and accountability of DGRs is important. However, we believe reviews and audits should be conducted only at the point where systemic issues have been identified and/or certain risk thresholds amongst categories of charities and DGRs have been surpassed.

A rolling review and audit process is costly and the case has not been made that such a cost is justified given the current nature of the risk. The ACNC and the ATO already have the power to undertake reviews and audits where they believe they are warranted. The expertise of the ACNC and ATO should be respected, and they should be allowed to independently determine what types of reviews and audits are necessary, and in what circumstances. The government should not interfere with their independence and second guess their expertise in this regard.

Furthermore, we particularly take exception to the idea that organisations should only receive DGR status for five years. This runs counter to the idea that charitable organisations have charitable purpose in perpetuity. Furthermore the administrative burden that it would place on organisations would be significant. Some community energy groups involved in C4CE took multiple years to receive their DGR status, putting a retrospective time limit on this status would just make delivering community energy projects and the work of groups trying to achieve their charitable status even more difficult and is not warranted.

In conclusion, we are concerned that any changes to the regulation of DGR would prevent C4CE members continuing their valuable work in helping to create a more sustainable future. This work would then need to be delivered by other agencies, putting more pressure on government, the



commercial sector and other organisations who are not best placed to deliver local energy solutions within a community for the benefit of the environment and that local community.

Thank you for the opportunity for feedback and if you require additional information please contact me on 0402 0345 80 or email: [secretariat@c4ce.net.au](mailto:secretariat@c4ce.net.au)

Yours sincerely

A handwritten signature in blue ink that reads 'Nicky Ison'.

Nicky Ison

Secretariat

Coalition for Community Energy

