



**Dharug Strategic Management Group Ltd**

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## **Deductible Gift Recipient (DGR) Registers Reform Submission from Dharug Strategic Management Group Ltd**

### ***Who is Dharug Strategic Management Group***

**Dharug Strategic Management Group Ltd (DSMG)** is a Dharug-led and managed not-for-profit company and registered charity. The company operates as an organisation for Dharug people, managed by Dharug people, the traditional custodians of lands across Western Sydney. DSMG was established in early-2018 after more than seven years of community consultation and negotiation about the ownership and management of the site of the Blacktown Native Institution in Oakhurst in Western Sydney.<sup>1</sup> The BNI site has cultural and historical significance for Dharug people and its return to Dharug ownership in 2018 was the first return of Nura to Dharug care since colonial times.

DSMG is immensely proud to accept the role of caring for the BNI site and developing a range of activities that will commemorate the site's colonial history, recognise and celebrate its much longer Dharug history and foster its ongoing place in Dharug futures as well as fostering wider understanding of Dharug culture, history and experience.

### ***Why is DSMG making this submission?***

In developing an application for DGR registration, DSMG has faced significant hurdles. Restrictive definitions of 'environment' and 'culture' have mitigated against administrative understanding of Indigenous ways of thinking about management of our lands and waters as foundational for cultural programs. Celebration, recognition and transmission of Dharug culture is central to our charitable purpose.<sup>2</sup> Caring for Country, restoring environmental qualities to the BNI site, and fostering opportunities for cultural expression on the site are all central to our purpose – but the DGR process precludes such integrative work.

### ***Our DGR Journey***

DSMG considered seeking DGR status when the company was created in early-2018, but on legal and strategic advice regarding the complexity of the process, it was decided to proceed to establishing the company as a registered charity and postponing registration for DGR status. By mid-2019 the DSMG Board had begun exploring prospects for DGR registration and decided to pursue this in February 2020.

Since commencing our formal DGR journey, we have faced a level of complexity and obstruction that has been disabling. The resources of small volunteer board have been extended almost to breaking point and, after two years, we have still been unable to submit our application.

Our company constitution defines the company's objects as involving both cultural and environmental responsibilities<sup>3</sup>, noting that Dharug ways of thinking sees no distinction between

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<sup>1</sup> The Blacktown Native Institution is the earliest remaining example of place where an institution was built specifically to house and indoctrinate Aboriginal people with European customs, and Christian beliefs. It is representative of the origins of institutionalisation of Aboriginal people in Australia. The Institution played a key role in the history of colonial assimilation policies and race relations that echo in contemporary politics, policies and institutions.

<sup>2</sup> The DSMG Constitution defines this as "to advance the culture and wellbeing of the Dharug people and promote reconciliation, respect and harmony between Aboriginal, Torres Strait Islanders and non-Aboriginal Australians".

<sup>3</sup> The DSMG Constitution identifies two objects for the company:

a) The company operates as a Cultural Organisation principally through the promotion, protection, recognition and advancement of Dharug culture through visual, performing and community arts, film, literature, craft, Dharug language, and fostering connection with and belonging to Dharug Nura through ceremony and other activities that promote social well-being, economic opportunity and environmental improvement.



these things. This is foundational to First Nations ways of thinking and our own corporate approach to our charitable purpose. It is also integral to our practices to ensure cultural safety for our people as we negotiate systems that differ so much from our own such as the current DGR registration process.

When we commenced our DGR journey, we understood that it would be a complicated process. Having set t out our priorities in our first strategic plan in late-2020, we recognised that DGR status would facilitate developing a fundraising program to build discretionary funds to support our vision for the BNI site as a place where cultural programs would help in healing Country and people and developing both revegetation of the site and facilities to support our charitable purpose.

From the beginning, our priorities were framed around four integrate strategies:

- **Caring for Country** (particularly supporting environmental restoration of the cultural landscape at the BNI site because the direct intersection with the wellbeing our people with honoring the impacts of the past cannot be underestimated)
- **Caring for Culture** (promoting, celebrating and recognising Dharug culture in a wide variety of forms)
- **Caring for People** (developing opportunities for participation in cultural, economic and community activities) and
- **Caring for the Company** (building good governance)

The first problem we faced as an Indigenous organisation is that charities and taxation law don't view the world in the same holistic way that we do. Our view is that there should be some attempt from the colonising culture and the institutions and structures it produced to understand the values and processes of First Nations peoples and the ways we develop and deliver support for our mob into the future. Unfortunately, and in truly colonial fashion, the DGR rules and registration procedures recognise specific but separate and distinct categories. In contrast, DSMG (and many Indigenous groups) sees our operations as integrating caring for Country, community, culture and the company.

Ironically, if our charitable purpose was to “address Indigenous disadvantage”, we would be able to get broad recognition – but this would require DSMG to adopt exactly the sort of patronising and demeaning welfare-oriented language that we wanted to avoid.

As we explored the DGR options, two categories (environmental organisations and cultural organisations) seemed most relevant to our work. For DSMG (and for many Indigenous groups) culture and Country are woven together as the weft and warp of people and place belonging together. Caring for Country (ie 'environmental' activity) is fundamentally a 'cultural' activity.

Organisations identified as Public Benevolent Institutions are generally eligible for DGR status. An ACNC [Commissioner's Interpretation Statement](#) recognises that organisations with a charitable purpose of advancing social or public welfare will be considered as PBIs and this includes the purpose of advancing Indigenous disadvantage. Similarly, an ACNC Commissioner's Interpretation Statement on [Indigenous Charities](#) clarifies how the idea of Indigenous disadvantage and the public interest test is applied to Indigenous charities such as DSMG. That statement was meant to get away from the historical legal language of charities that saw charities as providing direct benevolent relief for people disadvantaged by poverty, sickness, suffering, distress, misfortune, disability or helplessness. This is exactly the sort of paternalistic language that DSMG wants to avoid – and to avoid any community expectation that DSMG is a source of charitable welfare services rather than our preferred holistic approach to recovering, healing and belonging.

We initially considered two options.

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(b) The company operates as an environmental organisation principally through advocacy of the protection of environmental and cultural values in Country and in the return of Nura to Dharug stewardship, and in fostering environmental restoration of the BNI and promotion and passing on of Dharug environmental knowledge, understanding and practices at the BNI.



1. Seeking specific registration as a named organisation, requiring specific Commonwealth Parliamentary approval and involving seeking strong support from our local members and some advocacy to relevant parliamentarians.
2. Establishing charitable funds with specific purposes that could be registered separately for DGR purposes. We considered prospects for creating a BNI Dharug Environmental Purposes Fund (focused on environmental restoration programs), a BNI Dharug Cultural Purposes Fund (focused on a wide range of arts and culture programs) and also a BNI Dharug Building Fund (which we hoped might enable us to pursue fundraising for a major building project focused on creating a Dharug Keeping Place, Cultural Centre and Gallery and Performance Space on the site):

With support from Indigenous Communities Volunteers (now Community First Development), pro bono legal advice from Gilbert + Tobin and substantial efforts from our volunteer board we concluded that registration as a cultural organisation was the priority as this would allow us to pursue a range of arts and culture programs building on the success of our activities in the Biennale of Sydney 2020 in the face of substantial Covid-19 disruptions and delays. We established rules for a public fund, created a separate bank account which would become the public fund when we were granted registration, and a separate management committee to oversee the administration of the fund. Again, with a small volunteer board and no employees and no prospect of creating any full-time staff without substantial fund-raising success, this seemed to be the wise and straightforward pathway to DGR.

We clearly underestimated the extent to which colonial and colonising thinking continues to shape the way the Tax Office and taxation structures imagine the tasks facing Indigenous-led charitable initiatives. These colonial artefacts embedded in the DGR process have placed DSMG in a series of Kafkaesque Catch-22s.

1. If we insist that our Dharug cultural purposes include foundational activities of caring for Country (even though the BNI site itself was recognised as a participating artist in the Biennale of Sydney 2020), we are advised by the Registrar of Cultural Organisations that this will cruel our application as it is not a cultural purpose. If we do not include caring for Country dimensions in our cultural program, we are not being consistent with our Constitution and with Dharug community values around the promotion, recognition and celebration of culture.
2. Despite creating a separate account with a separate oversight process to become our public fund to receive and report DGR gifts, our bank (ANZ) took nearly a year to decide that the proposed fund name could not be attached to the account (too many letters!) and it would have to be established as a separate entity using a process that they are still yet to explain.
3. The ROCO has been helpful and supportive in providing advice, but has remained insistent that we need to provide clear guidelines, rules and processes for activities and programs that are yet to be designed and has not been willing to accept our existing partnership activities with longstanding and credible arts and cultural organisations such as the Biennale of Sydney, Blacktown Arts, Arts+Cultural Exchange, Casula Powerhouse Arts Centre as well as a wide range of Dharug artists, as evidence of our capacity to demonstrate our credentials as a responsible cultural organisation and wanted specific examples of how yet to be raised funds would be committed.
4. The ROCO also advised that our proposed rules governing the proposed public fund would need to be included in our governing document, which required two rounds of constitutional changes (again putting a very substantial burden on our volunteer and community resources). Having secured approval of those changes, the ROCO has continued to express



concern that our structures and processes will somehow be insufficient to secure registration.

As a result, we are now entering our third year after first committing to this process. We have amended our Constitution, and undertaken multiple rounds of engagement with accounting and legal advisors, our bank and the ROCO, and yet we find ourselves effectively still unable to actually submit an application with the ROCO.

The proposed amendments will certainly make the process simpler, but we remain concerned that the foundation for supporting Indigenous charities to pursue programs supporting objectives that reflect Indigenous ways of thinking and doing rather than insisting on still-colonising ideas of Indigenous charities being focused on “addressing Indigenous disadvantage, as the relief of impotence” to quote the ACNC statement.

We note that DSMG will patiently continue negotiating towards DGR registration in order to secure better access to funding to protect the important heritage site under our care and to utilise it as a Dharug place of belonging, becoming and healing and to foster our wider charitable purpose. We are now considering that special parliamentary recognition might have been a simpler path and might become a more achievable path to our goal. We celebrate the simplification of process proposed in the amendment but voice our continuing concern that it continues to assume the only sort of charitable purpose for Indigenous groups is to relieve “Indigenous disadvantage”. Surely this nation has moved beyond such myopic, restrictive and colonial thinking. Surely this is an opportunity to recognise the ways in which First Nations thinking to integrate rather than separate culture, environment and social responsibility fits into the charitable endeavour worthy of DGR recognition.

Thank you for the opportunity to provide this submission and provide you with an example of the complexity facing small volunteer groups in seeking DGR status to support our charitable work.

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Michelle Locke  
(Secretary)

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Richard Howitt AM JP  
Director-Finance