



BUSH HERITAGE AUSTRALIA

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Senior Adviser
Individual and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: DGR@Treasury.gov.au

Submission on the Tax Deductible Gift Recipient Reform Opportunities – Discussion Paper

To whom it may concern,

Bush Heritage Australia appreciates this opportunity to comment on the Treasury's Tax DGR Reform Opportunities Discussion Paper (June 2017) (**Discussion Paper**).

Bush Heritage Australia is a national non-profit organisation dedicated to protecting the natural environment through conserving biodiversity in Australia. We do this by buying and actively managing land of outstanding conservation value, and working in partnership with other landowners. We help protect native plants and animals on millions of hectares of the most ecologically important landscapes.

We take two main approaches to achieving conservation impact. Our founding strategy is to carefully select and purchase land with outstanding natural values and to manage that land for conservation gains, protecting its threatened ecosystems and providing refuge for hundreds of species, including species at risk. Each such Bush Heritage reserve creates an 'anchor' in the landscape from which we may extend and build partnerships, promote regional threat-management programs and community support. Our other key method is to work in partnership with others on their land. We work extensively with Traditional Owners, pastoralists, conservationists, businesses, non-government and government organisations, to achieve conservation outcomes at a landscape scale across Australia. Working together with our partners, we protect biodiversity on a much larger scale, creating healthier, more resilient ecosystems that benefit people as well as Australia's native species. In addition to these two main approaches, we undertake many complementary activities that support our mission to improve the health of Australia's bush.

Bush Heritage Australia ABN 78 053 639 115

Level 1, 395 Collins Street Melbourne, VIC 3000 Australia | PO Box 329 Flinders Lane Melbourne, VIC 8009

T: (03) 8610 9100 T: 1300 628 873 (1300 NATURE) F: (03) 8610 9199 E: info@bushheritage.org.au W: www.bushheritage.org.au

Whilst Bush Heritage Australia's environmental conservation work is incredibly important, we also recognise the enormous complementary importance of the contributions made by many other DGR environmental organisations around Australia. These environmental organisations significantly contribute to the protection of our natural environment through a range of different activities including advocacy, research, awareness-raising, information provision, education, legal services, community capacity-building and on-ground conservation and remedial work.

Bush Heritage Australia, by its nature, is not an organisation that is particularly expert in the intricacies of regulatory and legislative frameworks and therefore our submission focuses on selected specific questions raised in the Discussion Paper rather than attempting to address all of the questions. In deciding on this approach, we have been persuaded by the high quality of some of the submissions that have already been made (and which have been made available publically on websites by the submitting organisations). In respect of questions 1-3, 7 -11 and 13 posed by the Discussion Paper, we cannot provide any further submission that would add substantially to the expert, well-researched and well-considered submissions that have already been made, for example by the EDOs of Australia and the Community Council for Australia.

In response to the balance of the Discussion Paper questions:

Q4. Should the ACNC require additional information from all charities about their advocacy activities?

No.

One common and inherent activity of thousands of charities in Australia and many more around the world is to seek to influence decision-makers and commercial markets to encourage positive social and environmental change. This is achieved using countless different approaches, all of which could be termed "advocacy". Charities, commercial businesses, governments and individuals have a proud history in Australia of contributing to positive social and environmental change through advocating for such change. In the case of commercial businesses, the costs of such advocacy activities will generally be tax deductible and in the case of governments, the cost will generally be borne by taxes. Singling out the advocacy activities of charities for specific regulatory reporting requirements would only add to the current regulatory burden, thereby diverting significant donated resources away from the core missions of charities and costing significant additional taxpayer funds.

We understand that the Charities Act makes it clear that advocacy directed towards a charitable purpose is lawful and acceptable. In the event that a charity (or an individual or a commercial business) undertakes an illegal activity that relates to advocacy (or to any of a host of other matters such as employment practices, marketing, financial dealings etc) then the relevant laws and enforcement regimes are the appropriate avenues for dealing with such illegal activities. There is nothing inherently negative or concerning about the advocacy activities of charities that gives rise to the need for

additional reporting and regulation. In short, given the existing legal safeguards, ACNC guidance and reporting requirements, it is not necessary or beneficial to require charities to provide additional information about their advocacy activities.

Q5. Is the Annual Information Statement the appropriate vehicle for collecting this information?

Please refer to our submission under Question 4.

Q6. What is the best way to collect the information without imposing significant additional reporting burden?

Please refer to our submission under Question 4.

Q12. 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?

There should be no requirement at all for environmental organisations to commit annual expenditures from their public fund to environmental remediation. The reasons for this include:

- The often-stated truism that “prevention is better than a cure” applies to protecting our precious natural environment as fully as it applies to all issues of societal concern. Environmental remediation activities are incredibly costly and collectively they represent only one factor in the overall protection of the natural environment. It would be an enormously false economy to divert charitable resources away from current activities that seek to prevent or reduce the need for remediation in the first place. A requirement for a minimum allocation by environmental organisations to environmental remediation activities would not only result in such a resource diversion but would also result, through the likely closure of some environmental organisations, in an overall reduction in the charitable resources available for the protection of the natural environment.
- Not all environmental problems can be solved reactively and therefore proactive measures such as education and advocacy are vitally important to the protection of our precious natural environment.
- Just as it is often highly efficient for commercial businesses to develop specialist expertise in one or a limited number of facets of an industry sector, it is often highly efficient that environmental organisations develop a clear focus and expertise in particular activities. This may be a focus on remediation activities or alternatively it may be a focus on any of advocacy, research, awareness-raising, information provision, education, legal services, community

capacity-building or other activities. There would be a clear and significant inefficiency, resulting in perverse outcomes, that would arise from a requirement that all environmental organisations commit set percentages of their annual expenditure to environmental remediation, just as there would be gross inefficiency in requiring all commercial businesses to commit set percentages of their annual expenditure to, say, manufacturing activities. The appropriate test is not whether an environmental organisation's activities include remediation but whether the environmental organisation's activities support their charitable purpose to protect and enhance our precious natural environment.

- Other charitable sectors have efficiently evolved in the same way as the environmental charitable sector, such that particular areas of expertise exist in individual organisations. Just as there are environmental organisations that are chiefly or wholly focused on, for example, research or education or advocacy or legal services, there are organisations in other charitable sectors (such as in the advancement of health or social equality) that are chiefly or wholly focused on, for example, research or education or advocacy or legal services. For the same reasons that it would be clearly and significantly inefficient to require all such organisations to commit set percentages of their annual expenditure to directly remediating the health or social equality outcomes for identifiable individuals or communities, it would be clearly and significantly inefficient to require all environmental organisations to commit expenditures to directly remediating a physical environment.
- Within the parameters of the existing law, regulations and regulatory oversight functions, it is charitable organisations and their governing bodies who should determine how best to apply donations toward the community's benefit. Donors can then make a safe decision, informed by the regulatory and legal safeguards, as to which charitable organisations they wish to support.

Yours sincerely,



Robert Pratt CA MEnt (Exec) BAcc

Acting Chief Executive Officer
Bush Heritage Australia

robert.pratt@bushheritage.org.au