



## tasmanian conservation trust inc

Senior Advisor  
Individuals and Indirect Tax Division  
The Treasury  
Langton Crescent  
Parkes ACT 2600

DGR@treasury.gov.au

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### **Tax Deductible Gift Recipient Reform Opportunities: discussion paper**

The Tasmanian Conservation Trust (TCT) welcomes to the opportunity to provide comment on the *Tax Deductible Gift Recipient Reform Opportunities: Discussion Paper* – referred to as the Discussion Paper. We can provide further information if required.

The TCT's major concerns regarding the discussion paper are the proposals to require all environmental DGRs to spend at least 25 per cent of their expenditure on 'environmental remediation' and to require additional reporting for groups that undertake advocacy.

### **BACKGROUND ON THE TCT**

#### **The Tasmanian Conservation Trust**

The TCT is Tasmania's oldest continuing non-government environmental organisation (founded in 1968).

The TCT's mission is to conserve Tasmania's biodiversity and natural landscapes and to ensure that the use of natural resources is sustainable. We work on the full range of conservation issues, including sustainable agriculture and fisheries, reserve management, wildlife management, land use planning, etc, and perform our work in a wide range of ways. As we made clear to the House of Representative Committee of inquiry into the Register of Environmental Organisations, the TCT seeks to further its purposes through a range of methods, including: advocacy for improved legislation; submissions on government policies, strategies and management plans; legal challenges and planning appeals; assisting community groups; provision of education programs; and running our own strategically important on-ground projects.

All of the TCT's work is aimed at delivering on our purpose, to make an on-ground or practical benefit to the natural environment (as is clear in the

Floor 2, 191 Liverpool Street, Hobart TAS 7000 Australia

p (03) 6234 3552 f (03) 6231 2491 e [tct6@bigpond.com](mailto:tct6@bigpond.com) ABN 63091237520

attached statement of the TCT's mission and objectives and shown through our current work and our history of achievements). Most of our work is not directly related to practical outcomes e.g. through hands on projects, but all of our work ultimately aims to have an on-ground impact.

The TCT is not politically aligned i.e. we do not endorse or oppose political candidates, parties or elected members at any level of government.

### **Advocacy**

The TCT is asked by the state and federal governments to represent the non-government conservation interests by participating in a wide range of high level advisory committees. The TCT believes it is important to participate in government processes and attempts to lodge submissions on all important government legislation, strategies, discussion papers and management plans. These activities constitute a large part of our advocacy work.

We also made clear to the House of Representatives Committee that our advocacy is done in many different ways and we would find it very difficult to separate advocacy from other activities.

For example, some advocacy aims to change regulations and laws to directly assist community groups and ourselves to undertake more effective on-ground environmental activities. Recently we have been involved in lobbying for strengthened cat management laws to assist community-based cat control programs to be more effective and to empower more landowners to take action. We have also lobbied for stricter controls over the storage of used car tyres to assist our program to clean up inappropriately stored car tyres. In particular, regulations are needed to make it harder for people to continue to add to the problem while we are cleaning up the legacy problems. Advocacy and on-ground works are synergistic – publicising tyre cleanup projects draws attention to the need for stricter regulation of storage and disposal, which will assist in preventing the problem from re-occurring.

We also told the House of Representatives Committee that much of our work aims to address the causes of environmental problems or to prevent them from occurring as a priority, because, we believe that this is ultimately more effective and cost efficient than remediation. It is important to note that many environmental values cannot effectively be remediated. A current important example is a court case we have commenced that aims to stop the clearing and conversion of 1804 hectares of high conservation value native forest near Ansons Bay in Tasmania. We have also been lobbying for stronger biosecurity laws to prevent or restrict the introduction and spread of new weeds and pests into Tasmania.

Further detail in regard to what the TCT does and how it operates is included in the following attachment *An overview of the Tasmanian Conservation Trust*.

The attached copy of the *TCT's Annual Report and Audited Financial Statement 2015-16*, includes a list of our committee representation and key activities and achievements for the year. Our web site includes copies of our submissions and other materials that highlight the full range of our activities.

## **TCT DGR status**

The TCT is listed on the Register of Environmental Organisations by virtue of being listed at sub-section 30B of the Income Tax Assessment Act 1997. Subject to annual reporting to the Australian Charities and Not-for-profits Commission this grants the TCT the deductible gift recipient status allowing it to receive tax-deductible donations from its members and other supporters.

We cannot provide an objective measure of the benefit that this status has for our income i.e. we don't know which donors donate because of the tax benefit they obtain. However, we can assume that many of those who donate to us would not do so if they could not claim a tax-deduction from their donation. Feedback from members shows clearly that they want the TCT advocating for improved environmental laws and policies and any change that diminished our capacity to do this work would probably deter many people from joining and donating.

Having DGR status is an incentive for the general public to assist us and other organisations to protect, manage and rehabilitate the natural environment. Therefore, the existing DGR arrangements make a significant contribution to protection of the environment as well as reducing those donors taxable income and should not be changed unless it can be clearly demonstrated that this benefit is maintained or enhanced.

## **RESPONSE TO THE DISCUSSION PAPER**

**Consultation question 1 and 2:** The TCT supports in principle that registration with the ACNC be a prerequisite for environmental organisations to obtain endorsement as a DGR. While we are able to easily address the requirements for registration with the ACNC, we wonder if the proposal may negatively affect some groups that are not currently registered with the ACNC in ways that are not obvious and may be problematic. There should be additional targeted consultation with groups that are not currently registered with the ACNC to determine what the potential impacts of this requirement might be and to assist them to become registered.

**Consultation question 3:** no comment.

### **Consultation question 4, 5 and 6**

The Discussion Paper claims that 'There are concerns that charities and DGRs are unsure of the extent of advocacy they can undertake without risking their DGR status. This is a particular concern for environmental DGRs, which must have a principal purpose of protecting the environment' (page 6). The Discussion Paper does not provide evidence to support this claim or clarify who holds these concerns. The quotation seems to imply that advocacy or some types of advocacy are not appropriate activities for a charity to undertake for the purpose of protecting the environment. This is clearly incorrect. Advocacy is a legitimate activity for DGRs if done to further their charitable objectives.

The Discussion Paper asks whether there should be additional reporting requirements for environmental DGRs that undertake advocacy. Given that advocacy directed toward a charitable purpose is lawful under the Charities Act (as long as the charity does not break the law and does not support or oppose a political party or candidate), we can see no reason for singling out

this part of our work for additional reporting (see comments under point 12). The TCT believes that the current ACNC requirements in regard to registration, annual reporting and governance are sufficient and we do not support any additional requirements.

If environmental DGRs were to be asked to provide additional information regarding their advocacy activities, some organisations may stop doing some activities to avoid any potential threat to DGR status. This is a dangerous step toward silencing critics of the government of the day.

The Discussion Paper suggests that additional scrutiny of environmental DGRs is appropriate because our activities change, 'potentially making them ineligible for DGR status'. We would argue that changing our activities is not relevant, only if our purposes change would our DGR status be potentially affected.

**Consultation question 7:** If the proposal that the DGRs are to be registered with the ACNC can be shown to be acceptable, it seems appropriate to administer the four DGR registers through a central agency. However, we see that the ACNC would be the more appropriate organization. We also suggest that there should be a requirement for the ACNC to consult the Department of the Environment before making key decisions in regard to an environment organization e.g. to list, not list or delist a group.

**Consultation question 8:** No comment.

**Consultation question 9 and 10:** The TCT does not support the introduction of formal rolling reviews of DGR organisations as the existing ACNC requirements are adequate. Additional reviews and audits should be conducted only where issues have been identified that reflect an on-going or systematic problem. The ACNC already has mechanisms for members of the public to report inappropriate activities of DGRs and to have them investigated. We note that the number of reports to the ACNC has increased dramatically in recent years.

**Consultation question 11:** As one of the organisations listed by name in the Income Tax Assessment Act 1997, the TCT is concerned about the implications of the recommendation to remove environmental DGRs listed on the Act.

**Consultation question 12:** The TCT strongly opposes the recommendation to require environmental organisations to expend a proportion of their annual expenditure on 'environmental remediation'.

This proposal is grossly unfair as it is targeting only environmental DGR organizations and it would require some (including the TCT) to divert resources away from their priority activities, in particular advocacy.

Such a proposal contradicts the majority of submissions made to the House of Representatives Committee of Inquiry and is contrary to the findings of six Labor members and one Liberal member of the inquiry committee who rejected the proposal.

To require that the TCT expends a proportion of our funds on remediation, i.e. fixing environmental harm, rather than having discretion to spend those funds on preventing or limiting environmental harm, is contrary to a key principle that drives our work i.e. that it is more effective and efficient to prevent harm rather than to repair it. If we were required to allocate 25 per cent or more of our expenditure on environmental remediation, the TCT would be less effective at protecting the environment. Assuming we could retain our DGR status, such a

requirement may have a compounding negative impact by deterring some supporters from donating to us.

Ironically, to meet the proposed remediation requirement, the TCT might need to withdraw from responding to some government requests to comment on draft legislation, policies and management plans.

If existing staff were not willing or capable of doing remediation works, then we might be forced to replace existing staff or reduce the hours that they work and employ additional staff. This would be very disruptive and time consuming. We could also end up employing more staff at very few hours per week, which leads to reduced efficiency.

We would also have to divert very limited staff time to documenting and reporting on the remediation works and the expenditure utilised in it. As outlined above, the distinction between advocacy and on-ground or remedial works can be difficult to determine and the reporting process would be complicated and uncertain.

Such a requirement may be very difficult for some groups to achieve or correctly document to the satisfaction of the ATO or ACNC. It seemed to us that the motivation of the majority members of the House of Representatives Committee of Inquiry was to diminish the effectiveness of advocacy groups such as the TCT and perhaps cause us to lose our DGR status to further reduce our capacity.

We assert that each group should be left to choose where they focus their efforts and expenditure, to reflect the interests of their members and the priorities of their state and regions.

There has been a 'moving of the goal posts' which leads us to conclude that both the authors of this Discussion Paper and those who instigated the House of Representatives Committee of Inquiry are not motivated by any need to ensure tax deductible donations are spent wisely for the protection of the environment, but rather a political interest to attack certain environmental organisations who have different views to the current government. The TCT understands that the core concern of the House of Representatives Committee of Inquiry (as expressed in its terms of reference) related to the effectiveness of the Register of Environmental Organisations in supporting communities to take 'practical action to improve the environment'. In response to the TCT and many other groups arguing that all of our activities are aimed ultimately at achieving practical environmental outcomes, the majority report of the committee moved the goal posts, by proposing an expenditure requirement relating to 'environmental remediation'. The majority report provides no justification for a focus on remediation as opposed to other forms of environmental work and no justification for the change from 'practical environmental outcomes' to 'environmental remediation'. The Discussion Paper has now suggested increasing this expenditure requirement to 50 per cent, again, without providing a justification.

**Consultation question 13:** Requiring DGRs to be registered charities provides appropriate oversight and governance via the ACNC. There is no reason for other sanctions against DGRs.

**House of Representatives Committee recommendation 8:** The TCT supports the recommendation to provide more guidance in relation to conduit behaviour.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter McGlone', written in a cursive style.

Peter McGlone  
Director

## **ATTACHMENT 1: An overview of the Tasmanian Conservation Trust**

### **Our mission**

- Our mission is to conserve Tasmania's biodiversity and natural landscapes and to ensure that the use of natural resources is sustainable.

### **Key goals**

- To conserve, manage and rehabilitate Tasmania's terrestrial, freshwater and marine biodiversity and the natural landscapes that support it's biodiversity.
- To ensure that the extraction, use and disposal of natural resources is sustainable.
- Ensure that the major causes of environmental problems are addressed and where possible are prevented or avoided and that we deliver measurable and lasting on-ground outcomes.

### **Values and Principles**

- We work on the full range of conservation issues, not just those which grab headlines or are popular or current.
- We use independent science-based arguments to achieve our goals.
- Where possible we co-operate with governments, industries, community groups and land owners in a non-confrontationist manner to deliver environmental outcomes.
- We are not politically aligned or partisan i.e. we do not support or endorse particular political parties or individual politicians.

### **What the TCT does: a snapshot**

- The Tasmanian Conservation Trust (TCT) is Tasmania's oldest community environmental organisation (founded in 1968).
- No other state-wide environmental organisation in Tasmania involves itself in the same breadth of environmental concerns as the TCT. While most other prominent Tasmanian conservation organisations are primarily concerned with forestry and climate change issues, the TCT have concerns about a much wider range of issues.
- As of May 2015 the TCT is a member of 19 high-level State and Australian Government advisory committees, as well as 6 national non-government environmental alliances and 7 non-government industry and community committees. In the vast majority of instances fees are not paid for preparation and attendance or even for travel undertaken.
- The TCT attempts to lodge submissions on all important government legislation, strategies, discussion papers and management plans. The TCT believes it is important to participate, within the limits of our resources, in government processes and forums.
- The TCT is regarded as the primary point of contact by many smaller community organisations, NRM regional groups and local government for an ever expanding range of mainly 'brown issues'.
- Apart from its role in policy, planning and community support, the TCT has and continues to run strategically important on-ground projects and provides support in a range of ways to community groups.