

May 5, 2023

Commissioners and Associate Commissioners
Productivity Commission

Philanthropy inquiry: submission from a member of the public

Dear Dr Alex Robson, Julie Abramson, Krystian Seibert, and others whom it may concern,

Thank you for undertaking this public inquiry into philanthropy in Australia. Like many others, I think that the goals of the inquiry are commendable, and would be delighted to see them come to fruition. My submission focuses on one subset of these goals: those related to the examination of the deductible gift recipient (DGR) framework that applies to charities. In particular, I wish to highlight some ways in which the framework could be modified such that it more fairly and effectively serves the priorities of the broader community.

I agree with the Productivity Commission's previous recommendation¹ to "progressively expand DGR status to all charitable institutions and funds endorsed by the Registrar." However, if DGR status is expanded to some classes of charities before others, a question arises: which classes of charities should be prioritised for earlier inclusion when expanding DGR status? It stands to reason that the expansion should be done in an order that reflects the *purpose* of DGR categories and registers, which is "to align the activities of DGRs with community expectations and to ensure the tax concessions deliver clear public benefits."²

Below, I highlight two key classes of charities where I see the largest discrepancies between (a) the degree to which their work delivers clear public benefits that are valued by the Australian community (as DGRs should) and (b) the consistency with which charities in the class are conferred DGR status. Due to these discrepancies, I think that conferring DGR status to charities in these two classes should be prioritised if we wish to fulfil the goals of the DGR framework. At first glance, one of the classes of charities may seem more surprising than the other, so the rest of this submission is dedicated to outlining why that class should be prioritised.

¹ Productivity Commission. (2010). *Contribution of the Not-for-Profit Sector*, Research Report, Canberra. Available from: <<https://www.pc.gov.au/inquiries/completed/not-for-profit/report/not-for-profit-report.pdf>>.

² The Treasury, Australian Government. (2017). *Tax Deductible Gift Recipient Reform Opportunities, Discussion Paper, 15 June 2017*. Available from: from: <<https://treasury.gov.au/consultation/tax-deductible-gift-recipient-reform-opportunities/>>. | In this Discussion Paper, The Treasury states that the DGR tax arrangements are designed to encourage philanthropy in support of the not-for-profit (NFP) sector, which in turn benefits the public.

The perspective from which I am writing

I provide evidence for the claims I make below. However, I should also note the perspective from which I am writing. I have never been paid for charity work. I am involved with one charity as an unpaid board member, but it is a public health charity that already has DGR status (and already falls outside of the classes of charities I discuss below), so it will not be affected by any of the arguments I lay out below. I am writing from the perspective of a member of the public who, like millions of other Australians, donates to charity. Like many others, my donation behaviour is influenced by which charities have DGR status. I care about where I donate, and I care about where others are incentivised to donate. That is why I am writing this submission.

The new classes of charities that should be prioritised when conferring DGR status

There are a number of charities in Australia that are currently not eligible for DGR status *despite* doing highly impactful work that the Australian public values and wants to support. I think that there are two classes of charity that stand out as having particularly large discrepancies between the degree of public benefit they confer and the degree to which the overall class is supported by the DGR framework:

1. Charities working to reduce the probability of national and global catastrophic risks, and
2. Charities caring for wildlife and other nonhuman animals.

Regarding the first category, I expect that those reading this report are already aware of the degree to which the Australian public cares about the risks we face in our future. There is ample scholarly³ and poll-based⁴ evidence that we care about our future. The degree to which donations to environmental charities has been increasing over time⁵ is at least partly attributable to the fact that donors care about the future. Furthermore, the Assistant Minister for Competition, Charities and Treasury, the Honourable Dr Andrew Leigh MP, has written an entire book about global catastrophic risks and why we should care about them.⁶ Multiple other submissions to this inquiry have made strong arguments for why DGR status should be conferred to charities working to reduce these risks.

The way in which charities in the second category provide public benefit may be less obvious at first glance. However, I think that there is actually clear evidence supporting the fact that charities

³ Albrecht, G., Sartore, G. M., Connor, L., Higginbotham, N., Freeman, S., Kelly, B., Stain, H., Tonna, A., & Pollard, G. (2007). Solastalgia: the distress caused by environmental change. *Australasian psychiatry*, 15(sup1), S95-S98. | Sciberras, E., & Fernando, J. W. (2022). Climate change-related worry among Australian adolescents: an eight-year longitudinal study. *Child and adolescent mental health*, 27(1), 22-29.

⁴ Mission Australia, *Top three issues that young people care most about in 2022*, 29 November 2022, Available from: <<https://www.missionaustralia.com.au/stories/people-and-communities/top-three-issues-that-young-people-care-most-about-in-2022>>.

⁵ The Australian Environmental Grantmakers Network, *Environmental and Climate Change Giving Trends 2022*, 16 March 2022, Available from: <<https://www.aegn.org.au/environmental-and-climate-change-giving-trends-2022/>>.

⁶ Leigh, A. (2021). *What's the Worst that Could Happen?: Existential Risk and Extreme Politics*. MIT Press.

in this category *do* provide large public benefits and *are* supported by the Australian public. The rest of this submission is primarily dedicated to outlining some of the evidence supporting these claims. I then finish with a concrete suggestion regarding how the DGR Table contained in Section 30.45 of the *Income Tax Assessment Act 1997*⁷ can better support charities caring for wildlife and other nonhuman animals.

Why charities that care for wildlife and other nonhuman animals also provide benefits to the Australian public

As outlined below, multiple studies have documented that the Australian public cares about wildlife and other nonhuman animals, and thinks that cruelty toward them and the infliction of suffering upon them should be prevented. Arising from these values, there are community expectations that we should support and work towards improving our country's animal welfare outcomes. There is also evidence that meeting these expectations would provide substantial benefits to the public (in addition to benefiting the nonhuman charity recipients).

Certain species of Australian wildlife, such as the koala, have been labelled national "icons."⁸ However, the Australian public also values a range of other species, not just national icons.⁹ In a survey of 1,431 Victorians, including participants from both rural and urban communities, Miller (2003)¹⁰ found that the two values most strongly expressed in relation to wildlife were:

- (1) a "comparatively strong emotional attachment to individual animals," and
- (2) an interest in learning about wildlife.

A more recent survey of NSW residents also found positive attitudes toward a range of species of wildlife, with most residents valuing wildlife and believing that they should be protected, owing to the crucial role they play within the ecosystem.¹¹ Our "very positive" attitudes have also been found to extend towards marine wildlife.¹²

⁷ *Income Tax Assessment Act 1997* (Cth). Available from: <<https://www.legislation.gov.au/Details/C2023C00094>>.

⁸ Newsome, T. M. (2014). Makings of icons: Alan Newsome, the red kangaroo and the dingo. *Historical Records of Australian Science*, 25(2), 153-171. | Shumway, N., Lunney, D., Seabrook, L., & McAlpine, C. (2015). Saving our national icon: An ecological analysis of the 2011 Australian Senate inquiry into the status of the koala. *Environmental Science & Policy*, 54, 297-303.

⁹ Barratt, V., & Medvecky, F. (2022). Knowledge and attitudes towards Australian wildlife rescue services. *Australian Zoologist*, 42(3), 702-718. | Barratt, V. L. (2021). *Attitudes to wildlife rescue* (Doctoral dissertation, University of Otago). | FitzGibbon, S. I., and Jones, D. N. (2006). A community-based wildlife survey: the knowledge and attitudes of residents of suburban Brisbane, with a focus on bandicoots. *Wildlife Research*, 33(3), 233-241. | Miller, K. K. (2003). Public and stakeholder values of wildlife in Victoria, Australia. *Wildlife Research*, 30(5), 465-476. | Tisdell, C., Wilson, C., & Nantha, H. S. (2005). Policies for saving a rare Australian glider: economics and ecology. *Biological Conservation*, 123(2), 237-248. | Tisdell, C., & Wilson, C. (2004). The public's knowledge of and support for conservation of Australia's tree-kangaroos and other animals. *Biodiversity & Conservation*, 13, 2339-2359.

¹⁰ Miller, K. K. (2003). Public and stakeholder values of wildlife in Victoria, Australia. *Wildlife Research*, 30(5), 465-476.

¹¹ Fabian, M. C., Cook, A. S., & Old, J. M. (2020). Attitudes towards wildlife conservation. *Australian Zoologist*, 40(4), 585-604.

¹² Pearson, Mellish, Sanders, & Litchfield. (2014). Marine wildlife entanglement: Assessing knowledge, attitudes, and relevant behaviour in the Australian community. *Marine Pollution Bulletin*, 89(1-2), 136-148.

The public's belief that nonhuman animals deserve protection pertains not only to wildlife but to other animals as well.¹³ Critically, the majority of the Australian public believe that animals are capable of experiencing pain¹⁴ and that it is important to prevent animals from suffering.¹⁵ Indeed, it would be concerning if we did *not* think that suffering should be prevented. Empathic concern (and the related desire to prevent and alleviate suffering) is of central importance to our social functioning,¹⁶ and a deficit in empathic concern for others' suffering is a hallmark of a psychopathic personality.¹⁷

A 2019 survey of 1,521 participants from across Australia¹⁸ found that the vast majority of Australians agree that "*animals should not be subjected to unnecessary pain or suffering.*" In fact, 64% *strongly* agreed with this statement, 28% agreed, 6% were undecided, and only 2% disagreed. Consistent with these observations, the public tends to be very distressed when we learn about animal cruelty.¹⁹ For example, when footage was released in 2011 showing cattle suffering cruel treatment as part of the live export trade, the common responses of the Australian public ranged from "appalled" to "shocked" and "horrified."²⁰

The observations above follow naturally from the increasing recognition (among both scientific and lay communities) that animals are sentient and are capable of suffering. As soon as one recognises that animals are sentient, it follows that they are capable of experiencing negative emotional states. Consequently, unless one is sadistic or is lacking in empathy,²¹ one will be motivated to prevent animals from being subjected to unnecessary pain and suffering.

The Cambridge Declaration on Consciousness neatly summarises the neuroscientific evidence that humans are not the only animals capable of consciousness. The Declaration was made by an international group of prominent cognitive neuroscientists, neuropharmacologists, neurophysiologists, neuroanatomists and computational neuroscientists, and it states that:

¹³ Cornish, A., Raubenheimer, D., & McGreevy, P. (2016). What we know about the public's level of concern for farm animal welfare in food production in developed countries. *Animals*, 6(11), 74. | Whittaker, D.A., Buddle, D.E., & Ankeny, R. (2022). *Research Survey on Australian Attitudes to Animal Research*. The University of Adelaide.

¹⁴ Coleman, G. (2007). Public perceptions of animal pain and animal welfare. *Proceedings of the Australian Animal Welfare Strategy Science Summit on Pain and Pain Management*, 27(1), pp. 1-8.

¹⁵ Buddle, E. A., Bray, H. J., & Pitchford, W. S. (2018). Keeping it 'inside the fence': an examination of responses to a farm-animal welfare issue on Twitter. *Animal Production Science*, 58(3), 435-444. | Tiplady, C. M., Walsh, D. A. B., and Phillips, C. J. (2013). Public response to media coverage of animal cruelty. *Journal of agricultural and environmental ethics*, 26(4), 869-885. | Whittaker, D.A., Buddle, D.E., & Ankeny, R. (2022). *Research Survey on Australian Attitudes to Animal Research*. The University of Adelaide.

¹⁶ Decety, J., & Moriguchi, Y. (2007). The empathic brain and its dysfunction in psychiatric populations: Implications for intervention across different clinical conditions. *Biopsychosocial Medicine*, 1, 22. | Numan, M., & Ebooks Corporation. (2015). *Neurobiology of social behavior: Toward an understanding of the prosocial and antisocial brain*. London, England: Elsevier : Academic Press.

¹⁷ Campos, C., Pasion, R., Azeredo, A., Ramião, E., Mazer, P., Macedo, I., & Barbosa, F. (2022). Refining the link between psychopathy, antisocial behavior, and empathy: A meta-analytical approach across different conceptual frameworks. *Clinical Psychology Review*, 94, 102145.

¹⁸ Futureye. (2019). *Australia's Shifting Mindset on Farm Animal Welfare*. Available from: <<https://web.archive.org/web/20191108034242/http://www.agriculture.gov.au/SiteCollectionDocuments/animal/farm-animal-welfare.pdf>>.

¹⁹ Tiplady, C. M., Walsh, D. A. B., & Phillips, C. J. (2013). Public response to media coverage of animal cruelty. *Journal of agricultural and environmental ethics*, 26(4), 869-885.

²⁰ Coghlan, S. (2014). Australia and live animal export: wronging nonhuman animals. *Journal of Animal Ethics*, 4(2), 45-60.

²¹ McPhedran, S. (2009). A review of the evidence for associations between empathy, violence, and animal cruelty. *Aggression and Violent Behavior*, 14(1), 1-4.

*"The weight of evidence indicates that humans are not unique in possessing the neurological substrates that generate consciousness. Nonhuman animals, including all mammals and birds, and many other creatures, including octopuses, also possess these neurological substrates."*²²

In addition to the above scientific consensus on animal consciousness, members of the public are also increasingly understanding of animal sentience, in part thanks to the educational materials available. For example, the Royal Society for the Prevention of Cruelty to Animals provides the public with accessible information on animal sentience so that anyone can freely read and readily understand the information.²³

In the Australian Capital Territory, the recognition of animal sentience became enshrined in legislation on September 26, 2019,²⁴ when the Animal Welfare Legislation Amendment Bill was passed to amend the ACT's *Animal Welfare Act* (1992).²⁵ The main objects of the Act are now to recognise that:

"(a) animals are sentient beings that are able to subjectively feel and perceive the world around them; and

(b) animals have intrinsic value and deserve to be treated with compassion and have a quality of life that reflects their intrinsic value; and

(c) people have a duty to care for the physical and mental welfare of animals."

The Victorian government also recognises that animals are sentient in its recent Animal Welfare Action Plan.²⁶ Furthermore, even in cases where there *isn't* an explicit mention of animal sentience *per se*, there is still an acknowledgement in multiple pieces of Australian legislation that animals are capable of suffering and that unnecessary suffering should be prevented.²⁷

In light of the research and attitudes outlined above, the Australian public has high expectations for animal welfare. Sinclair and colleagues concisely summarise these expectations as follows: *"The Australian public will not accept cruelty to animals, perceived or otherwise."*²⁸ These attitudes give rise to community expectations that we should support and work towards improving our country's

²² Low, P., Panksepp, J., Reiss, D., Edelman, D., Van Swinderen, B., & Koch, C. *The Cambridge Declaration on Consciousness*. Available from: <<http://fcmconference.org/img/CambridgeDeclarationOnConsciousness.pdf>>.

²³ RSPCA. (2018). What is animal sentience and why is it important? Revised March 14 2018. Available from: <<https://kb.rspca.org.au/knowledge-base/what-is-animal-sentience-and-why-is-it-important/>>.

²⁴ Pallotta, P. (2019). Australian Capital Territory Enacts New Law Recognizing Animal Sentience. Available from: <<https://aldf.org/article/australian-capital-territory-enacts-new-law-recognizing-animal-sentience/>>.

²⁵ *Animal Welfare Act* 1992 (ACT). Available from: <<https://www.legislation.act.gov.au/View/a/1992-45/current/html/1992-45.html>>.

²⁶ *Animal Welfare Action Plan* 2018 (Victoria). Available from: <https://agriculture.vic.gov.au/__data/assets/pdf_file/0003/562386/Animal-Welfare-Action-Plan-Dec-2017.pdf>.

²⁷ Queensland legislation provides one example: *Animal Care and Protection Act* 2001 (Qld). It includes multiple references to animal suffering. Available from: <<https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2001-064>>.

²⁸ Sinclair, K., Curtis, A. L., Atkinson, T., & Hacker, R. B. (2020). Public attitudes to animal welfare and landholder resource limitations: implications for total grazing pressure management in the southern rangelands of Australia. *The Rangeland Journal*, 41(6), 477-484.

animal welfare outcomes.²⁹ It follows, then, that providing DGR support for charities which work to reduce animal suffering would serve to bring the DGR framework into greater alignment with the emotions, expectations and beliefs of the Australian public.

If animal charities are more effectively supported by the DGR framework, the nonhuman recipients of charities are not the only ones that will benefit: there are multiple reasons to expect that the Australian public will benefit significantly from this development as well. When it comes to general donation behaviours, charitable giving has been found to predict wellbeing in several studies,³⁰ so incentivising people to donate is likely to confer benefits to the donors as well as the recipients. Furthermore, animal welfare and human welfare can directly positively reinforce each other, as explained in detail elsewhere.³¹ Bidirectional relationships between animal welfare and human wellbeing might form part of the explanation for why Rhoads and colleagues (2021) found that, across a sample of 48 countries, there was a statistically significant ($p < .001$) positive correlation (with a correlation coefficient of 0.649) between the degree to which countries were deemed to treat animals humanely (according to the World Animal Protection Index) and the subjective wellbeing of people in those countries.³²

How the DGR categories should be amended in relation to animal charities: a concrete proposal

In order for the DGR framework to align with the community values and expectations outlined above, there must be a revision of the DGR provisions set out in Division 30 of the *Income Tax Assessment Act 1997* (Cth) (Gifts and Contributions). The current provisions do not confer DGR status to charities that work to prevent cruelty and nonhuman suffering, or to charities that care exclusively for native wildlife. The revisions described below will enable the provisions to better reflect the wishes of the Australian public.

Within the current *Welfare and rights* DGR Table contained in Section 30.45 of the *Income Tax Assessment Act 1997* (Cth), Item 1.4.6 is the only item that pertains to charities that care for animals. This item is shown in the following extract from the DGR Table.

²⁹ de Witte, K. (2009). Development of the Australian Animal Welfare standards and guidelines for the land transport of livestock: Process and philosophical considerations. *Journal of Veterinary Behavior: Clinical Applications and Research*, 4(4), 148-156.

³⁰ Hui, B. P., Ng, J. C., Berzaghi, E., Cunningham-Amos, L. A., & Kogan, A. (2020). Rewards of kindness? A meta-analysis of the link between prosociality and well-being. *Psychological Bulletin*, 146(12), 1084.

³¹ International Fund for Animal Welfare. (2022). *One Health*. Available from: <https://d1jyxxz9imt9yb.cloudfront.net/resource/1415/attachment/original/FS_ONE_HEALTH_LETTER_US_RGB_FINAL_DIGITAL.pdf>. | International Fund for Animal Welfare. (n.d.). *Thriving Together Achieving the Sustainable Development Goals and Increasing Well-Being for Animals and People*. Available from: <https://d1jyxxz9imt9yb.cloudfront.net/resource/225/attachment/original/IFAW_SDG-animals-human-wellbeing-report.pdf>.

³² Rhoads, S. A., Gunter, D., Ryan, R. M., & Marsh, A. A. (2021). Global variation in subjective well-being predicts seven forms of altruism. *Psychological Science*, 32(8), 1247-1261.

30-45 Welfare and rights

(1) This table sets out general categories of welfare and rights recipients.

[Table One: Extract from Section 30.45] Welfare and rights—General			
<i>Item</i>	<i>Fund, authority or institution</i>	<i>Special conditions— fund, authority or institution</i>	<i>Special conditions—gift</i>
4.1.6	<i>an institution whose principal activity is one or both of the following: (a) providing short-term direct care to animals (but not only native wildlife) that have been lost or mistreated or are without owners; (b) rehabilitating orphaned, sick or injured animals (but not only native wildlife) that have been lost or mistreated or are without owners</i>	<i>the institution must be a *registered charity</i>	<i>none</i>

By failing to include charities that work to prevent cruelty and nonhuman suffering, as well as charities that care exclusively for native wildlife, Item 1.4.6 currently fails to reflect both the Australian public's desire to prevent cruelty and nonhuman suffering, and the value we place in our wildlife.

Proposed revision of Section 30.45 for comment

Within column 2 under Item 1.4.6, the following substitutions are proposed:

an institution whose principal activity is one or all of the following:

(a) providing short-term direct care to animals that have been lost or mistreated or are without owners;

*(b) rehabilitating orphaned, sick or injured animals (**including** native wildlife) that have been lost or mistreated or are without owners; **and/or***

(c) working to promote animal welfare and to prevent cruelty and nonhuman suffering

Once again, thank you for undertaking this inquiry, and thank you for reading this submission.

Best wishes,

Clare Harris