



## TAX DEDUCTIBLE GIFT RECIPIENT REFORM OPPORTUNITIES

Discussion Paper Comments – July 2017

### SUMMARY

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- ‘The environment is fundamental to Australia’s economy and wellbeing—without a healthy environment, we cannot thrive’ (*Australia State of the Environment Report 2016*).
- The current challenges facing effective management of the environment across Australia are extensive with significant pressures including climate change, land-use modification, habitat fragmentation and degradation, and invasive species.
- Conservation on private land plays a key role in managing and protecting nature for the public good.
- On-ground work, including remediation, is a small element of conservation activities and the recommendation for minimum annual remediation spending from public funds would reduce effectiveness, efficiency, innovation and limit environmental outcomes. Science and research, education, advocacy, market based mechanisms and financially sustainable business models are critical inclusions in the mix of activities to support Australia’s natural environment.
- The focus ought to be the principle purposes not the activities of organisations.
- Organisations ought to have the ability to be as efficient, effective and innovative as possible both in order to achieve outcomes and in order to retain the confidence of the communities they serve.
- All charities and not-for-profit organisations should be subject to the same DGR rules and procedures regardless of their charitable purposes.

### INTRODUCING THE TASMANIAN LAND CONSERVANCY

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The Tasmanian Land Conservancy (TLC) is a private, not-for-profit organisation that conserves nature on private land in Tasmania. We are an apolitical, science and community-based organisation, using business principles to achieve our work.

Our vision is for Tasmania to be a global leader in nature conservation.

TLC employs three main mechanisms to protect natural assets or conservation values on private land:

1. purchase of land to be kept and managed by the TLC as Permanent Reserves, with Conservation Covenants registered on the reserve titles;
2. operation of a Revolving Fund, where properties are purchased, protected by conservation covenants on title and on-sold; and

3. working in partnership with private landholders and the Tasmanian and Australian governments, corporate sponsors and philanthropists to promote and facilitate nature conservation on private land.

In the sixteen years since inception, the TLC has grown to become one of the largest private landholders in Tasmania. Our seventeen Permanent Reserves across the state total around 13,000 hectares, protecting a range of important habitats from coastal wetlands to alpine meadows. We manage a further approximately 22,000 hectares for nature and have facilitated nature conservation over approximately 2% of the private land in Tasmania.

The TLC is a Tasmanian incorporated association that is registered with the ACNC. Our public fund, the Tasmanian Land Conservancy Fund was entered into the Register of Environmental Organisation in July 2002.

In 2009, we established the Tasmanian Land Conservancy Foundation, an endowment fund to secure the independent, long-term resourcing required to ensure the efficient and effective management of our reserves. While acquiring and protecting land is critically important, effective, long-term management and long-term ecological monitoring is fundamental to ensure these areas remain safeguarded for future generations. Each year, the income generated from the Foundation and other revenue streams (general donations, property sales and ecosystem service payments e.g. carbon credits) allows the implementation of critical conservation monitoring, science and research, land management, education, outreach and general administration activities across our reserve estate.

Deductible Gift Recipient (DGR) status is essential for the generation of the TLC's philanthropic income and we are grateful for the opportunity to provide comment on the Tax DGR Reform Opportunities Discussion Paper, 15 June 2017.

## STATE OF THE ENVIRONMENT IN AUSTRALIA

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The recently released [Australia State of the Environment Report 2016](#) notes 'the environment is fundamental to Australia's economy and wellbeing—without a healthy environment, we cannot thrive'. Nature and the ecosystem services it provides are crucial to society. The public and commercial benefits derived from healthy natural systems are widespread, from water and air quality and flood mitigation, to coastal stabilisation, improved crop pollination, and the aesthetic and recreational amenity.

Threats to Australia's environment are extensive with climate change, land-use modification, habitat fragmentation and degradation, and invasive species the main pressures. 'In addition, the interactions between these and other pressures are resulting in cumulative impacts, amplifying the threats faced by the Australian environment' (Australia State of the Environment report 2016).

The State of the Environment Report's Executive Summary highlights key challenges regarding the effective management of the Australian environment:

1. 'An overarching national policy that establishes a clear vision for the protection and sustainable management of Australia's environment to the year 2050 is lacking. Such a program needs to be supported by
  - o specific action programs and policy to preserve and, where necessary, restore natural capital and our unique environments, taking into account the need to adapt to climate change

- complementary policy and strengthened legislative frameworks at the national, state and territory levels
  - efficient, collaborative and complementary planning and decision-making processes across all levels of government, with clear lines of accountability.
2. Poor collaboration and coordination of policies, decisions and management arrangements exists across sectors and between different managers (public and private).
  3. Follow-through from policy to action is lacking.
  4. Data and long-term monitoring are inadequate.
  5. Resources for environmental management and restoration are insufficient.
  6. The understanding of, and capacity to identify and measure, cumulative impacts is inadequate, which reduces the potential for coordinated approaches to their management'.

Meeting these challenges requires:

- 'integrated policies and adaptive management actions that address drivers of environmental change and the associated pressures
- national leadership
- improved support for decision-making
- a more strategic focus on planning for a sustainable future
- new, reliable sources of financing' (Australia State of the Environment Report 2016).

These are arguably the biggest environmental challenges we have faced as a nation, however environment organisations, landowners and communities working on-ground (in concert with science and government initiatives) are identifying opportunities for managing Australia's environment in order to retain or rebuild the resilience needed to cope with pressures ([State of Environment Report, 2016](#)).

The TLC recognises that effective management of the Australian environment requires a variety of strategic methods including increasing the Australian National Reserve System (NRS). A national network of public, indigenous and Privately Protected Areas (PPA) over land and inland freshwater, the NRS' objective is to secure long-term protection for samples of Australia's diverse ecosystems and the plants and animals they support. It is recognised that the NRS cannot be achieved on public lands alone and there is a significant role for indigenous groups, local communities, private landholders and NGOs to play in establishing and managing protected areas. ([Stolton, Redford and Dudley 2014. The Futures of Privately Protected Areas. Gland, Switzerland: IUCN](#)).

With 60% of Australia under private ownership, Creswell and Murphy explain that PPAs play an essential role in addressing environmental degradation at all scales, from communities working together locally, to the contribution towards global biodiversity agreements (Australia State of the Environment Report 2016). Supporting private landholders (from environmental NGOs to individual property owners) to deliver effective long-term environmental outcomes is critical. Legal mechanisms such as conservation covenants are key to achieving the

critical challenges posed by on-going environmental threats. PPAs are a vital component of the National Reserve System (Australia State of the Environment report 2016).

PPAs through land acquisition and the placement of conservation covenants are important mechanisms that contribute towards nature conservation. There are however, various methods to improve Australia's environment and many need to be applied in partnership with others. These include science and research, market-based mechanisms, compliance, innovation, education, community outreach and advocacy.

## OUR CONCERNS WITH THE DISCUSSION PAPER

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In 2001, The Hon Ian Sheppard AO QC, Robert Fitzgerald AM, and David Gonski recommended that 'the advancement of the natural environment' be recognised as a charitable purpose (Report of the Inquiry into the Definition of Charities and Related Organisations, 2001). The independent inquiry took advancement to include 'protection, maintenance, support, research, improvement or enhancement' (2001, p 16).

The DGR Discussion Paper proposes that environmental NGOs to commit no less than 25% (or possibly up to 50%) of the annual expenditure from their public fund to environmental remediation (consultation question #12).

In the Inquiry into the Register of Environmental Organisations by the House of Representative Standing Committee on the Environment, the Committee defines remediation as 'revegetation, wildlife rehabilitation, plant and animal pest control, land management, and covenanting' (2016, p.46). 'Activities such as education, research, advocacy, legal services, activities involved in representing member organisations, and activities carried out overseas should not qualify as remediation work' (2016).

The TLC is significantly concerned about the restriction proposed in consultation question 12 for the following key reasons.

**1. Remediation is not of greater importance than other mechanisms in advancing the natural environment.**

Remediation is *an element* of environmental advancement, but there are many other mechanisms that ought to be included in the mix as alluded to in the State of Environment Report, 2016 (specific sections referred to above).

**2. Education is excluded from the definition of 'remediation' despite the essential role it plays in building resilient communities**

Engagement with the community, government and industry on new and emerging issues is paramount. Connecting all sectors and every Australian with nature and the benefits it provides is strategically important to ensure we have resilient communities well into the future. Nature provides services to the community such as clean air, clean water, healthy soils, productive crops, a stable climate, recreation, inspiration and cultural connection to place. Supporting these services will in turn support the communities that depend upon them.

**3. Research is excluded from the definition of 'remediation' despite the essential role it plays in effective and strategic land management.**

Science and research informs reserve management plans and monitors new threats to conservation assets. Using robust and peer-reviewed methodologies, science and research ensures impacts are measured, and funding is spent where it can have the greatest impact. Many organisations including the TLC, the Australia's largest

landholding conservation NGO's: the Australian Wildlife Conservancy and Bush Heritage Australia, rightly embrace science and research as a fundamental component of land management.

#### **4. Advocacy is a legitimate activity**

The Australian Charities and Not-for-Profits Commission's (ACNC) advice to charities on the [legal meaning of advocacy](#) refers to *The Charities Act*, noting 'a charity can advance its charitable purposes (by): involving itself in public debate on matters of public policy or public administration through, for example, research, hosting seminars, writing opinion pieces and interviews with the media' (2017). For an environmental not-for-profit organisation, advocacy plays a legitimate role in strategically delivering the charitable purpose of advancing the natural environment. In fact, it is unlikely the challenges identified in the State of the Environment Report 2016 will ever be addressed without advocacy from charities and the broader community.

Arguably advocacy plays a role for all not-for-profits to achieve their charitable purpose, from improving literacy to reducing homelessness. Advocacy is a cornerstone for civil society, providing a setting for an informed community, public debate and participatory democracy.

#### **5. The definition of 'remediation' is silent in relation to market based mechanisms or long term sustainable financing mechanism to support land management**

It is unclear from the definition of 'remediation' whether market based mechanisms (such as the acquisition of land) and the establishment of endowment funds would be permitted 'remediation' activities. If not, it would lead to the perverse outcome that one of the most effective mechanisms for conserving the natural environment (acquiring and managing land in perpetuity) is not an activity for which deductible gifts could be received. Further, the establishment of endowment funds to steward long term land management may fall short of the definition. This means organisations that attempt to establish these very effective, long term and financially sustainable mechanisms to support land management will be less effective, short term focused and less financially sustainably into the future.

#### **6. Setting annual figures for remediation spending targets would reduce flexibility and effectiveness, focusing on end of year dates for expenditure rather than strategic outcomes.**

It does not enable organisations to focus on strategic delivery based on long-term planning to build landscape scale resilience, and importantly organisational resilience. Rather, such targets will drive when remediation work is done, not because the time is right to benefit the environment but because arbitrary reporting dates and allocations have been set.

**From a higher level policy perspective there are several reasons why the proposition in consultation question 12 is of significant concern, including:**


1. The proposal to restrict activity expenditure of environmental DGRs will impose additional administrative burden and will inhibit achievement of best outcomes and curtail innovation.

2. The proposal will have unintended consequences in lessening support for maintaining Australia's environment due to the greater administrative burden and consequent decrease in efficiency, effectiveness and innovation within the sector.
3. It is appropriate to focus on the principle purpose of DGRs and not the *activities* undertaken to achieve the principle purpose.
4. It is appropriate to treat all charities and not-for-profit organisations equally and fairly within the regulatory context.

The TLC supports a system that ensures consistency, independence and efficiency for not-for-profit organisations in administration and governance across charity sectors. We welcome the harmonisation of registration and reporting, and support for charities to meet their regulatory requirements. We invite authorities and regulators to be fair, transparent and impartial and that all not-for-profit organisations be subject to the same rules and procedures regardless of their charitable purposes.

Please do not hesitate to contact me for more information on the above comments.

With regards



Jane Hutchinson  
CEO

Tasmanian Land Conservancy

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