

Activities undertaken by environmental deductible gift recipients

- 4.1 During the inquiry, the Committee received extensive evidence about a wide range of activities undertaken by environmental deductible gift recipients (DGRs).
- 4.2 Broadly speaking, the activities of environmental DGRs can be summarised under four categories, which are discussed in this chapter:
- environmental remediation;
 - education and research;
 - policy advocacy and representation; and
 - other activities including those carried out overseas.
- 4.3 The Committee was interested to learn more about these activities and undertook various site inspections across the country. Organisations that facilitated site inspections are listed in Chapter 1. Evidence gathered during these site inspections is also reflected throughout this chapter.
- 4.4 The Committee also received evidence about community engagement with the work of environmental DGRs – through volunteering, for example – and heard some concerns about the activities of environmental DGRs. This evidence will be discussed in the following chapter.

Environmental remediation

- 4.5 The Committee heard from a large number of environmental DGRs involved in the delivery of activities to remediate environmental damage – from weed management to landscape-scale revegetation.
- 4.6 For example, Conservation Volunteers Australia outlined the range of activities undertaken by its volunteers, including tree planting, invasive

weed control, wildlife surveying to assist with threatened species management, track and boardwalk restoration, native seed collection, signage and interpretation, erosion and salinity control, and flora and fauna monitoring.¹

- 4.7 Similarly, Landcare Tasmania described the broad range of activities delivered by community Landcare groups under its philanthropic program, including revegetation activities to enhance wildlife habitat, soil conservation to prevent and mitigate erosion, removal of pest plant and animal species, fencing remnant vegetation from a range of threats, and water quality initiatives in riparian areas.²
- 4.8 In its submission to the inquiry, Landcare Tasmania noted the role of the community Landcare movement in achieving environmental outcomes such as protection of habitat for biodiversity, mitigation of climate change and climate variability, and improvements to water quality.³
- 4.9 To see an example of environmental remediation firsthand, the Committee travelled to the Meander River catchment near Launceston to inspect a river recovery project funded by Landcare Tasmania. The project involved the excavation and incineration of willow and other invasive species, which have displaced native vegetation along the river.
- 4.10 At the site, the Committee heard evidence about the environmental outcomes of the project, including reduced erosion, improved river flow and water quality, and establishment of new habitat for native wildlife. These outcomes were achieved in a cost-effective manner with the support of volunteers and in partnership with farmers and local landholders.
- 4.11 The Committee also travelled to Murray Bridge near Adelaide, where it inspected a community nursery operated by the Eastern Hills and Murray Plains Catchment Group. In its submission, the organisation described its work as ‘practical action to both improve skills and outcomes for biodiversity and natural resource management’.⁴
- 4.12 At the site, the Committee heard how the organisation supplied native seedlings to the local council and other environmental organisations for use in revegetation projects, including revegetation of former agricultural land at the nearby Monarto Zoo. The Committee also heard how the organisation provided training in conservation and land management to its volunteers, including participants in the Green Army program.

1 Conservation Volunteers Australia, *Submission 289*, p. 1.

2 Landcare Tasmania, *Submission 433*, p. 5.

3 Landcare Tasmania, *Submission 433*, p. 1.

4 Eastern Hills and Murray Plains Catchment Group Inc., *Submission 434*, p. 1.

Education and research

- 4.13 In addition to the organisations undertaking environmental remediation, the Committee heard from environmental DGRs providing information and education to the public about environmental issues, or supporting research into aspects of the natural environment.
- 4.14 For example, at the Centre for Education and Research in Environmental Strategies (CERES) in Melbourne, the Committee heard about education, outreach, and training programs designed to build skills and knowledge about environment issues and sustainable practices. In its submission, CERES explained that more than one million school students have participated in its environmental education programs.⁵
- 4.15 In its submission to the inquiry, the Ecological Society of Australia described its focus on facilitating high-quality environmental research and promoting the application of ecological principles to the development, utilisation, and conservation of natural resources.⁶
- 4.16 Associate Professor Nigel Andrew, President of the Society, explained how the organisation prepares evidence-based fact sheets on a range of environmental issues:
- ... we are also promoting ecological research to the public, so we do the research and we interpret the research. ... we take it from, I guess, the scientific language and ... put it into a form that can be interpreted by the general public.⁷
- 4.17 Professor Andrew also emphasised the role of research in informing on-ground environmental work:
- We are trying to give [people working in the environment] the information so, if they are revegetating a mine site, they know the best and most appropriate species to put there. Also – if they are managing an area that needs to be managed, so, basically, a fence has been put around it – how they manage it to assess the diversity in the area or manage it properly.⁸
- 4.18 Similarly, the Great Barrier Reef Foundation submitted that the research it funds responds to the needs of reef managers:

5 Centre for Education and Research in Environmental Strategies Inc., *Submission 373*, p. 2.

6 Ecological Society of Australia, *Submission 349*, pp. 2–3.

7 Associate Professor Nigel Andrew, President, Ecological Society of Australia, *Committee Hansard*, Brisbane, 14 July 2015, p. 49.

8 Associate Professor Andrew, Ecological Society of Australia, *Committee Hansard*, Brisbane, 14 July 2015, p. 49.

The Foundation primarily funds research programs that deliver data, information and knowledge that is relevant and accessible to reef managers, policy-makers, and other end-users.⁹

- 4.19 During a visit to the Australian Institute of Marine Science, the Committee heard about the Foundation's involvement in the eReefs project, which involves developing a framework to link land management activities in catchments to water quality and ecological responses. The project is designed to assist regulatory authorities, natural resource management groups, and other stakeholders.¹⁰
- 4.20 Ms Claire Hanratty, Managing Director of the Foundation, explained the organisation's role in the eReefs project:

Our role ... is to catalyse that project to bring together the Bureau of Meteorology, the Australian government, the Queensland government, the CSIRO, and the Australian Institute of Marine Science as the delivery parties of that project, and to bring private sector funding to that project through BHP Billiton Mitsubishi Alliance.¹¹

Policy advocacy and representation

- 4.21 Many submissions to the inquiry focused on the advocacy role of environmental DGRs. Based on the evidence received, this role encompasses a diverse range of activities, including representation of member organisations, providing input into the policy development process, making representations to legislators and local representatives, and public campaigning in relation to environmental matters.
- 4.22 The Committee heard from several peak environmental organisations about their role in representing the interests of their member groups. For example, Mr Mark Ritchie, Executive Officer of Landcare Tasmania, described how the organisation provides an independent, representative voice for Landcare groups:

... our mission is really to promote community Landcare, connect people and organisations within that Landcare space, support our Landcare movement, and represent them as an advocacy body.¹²

9 Great Barrier Reef Foundation, *Submission 279*, p. 3.

10 eReefs Collaboration, 'eReefs' <<http://ereefs.org.au/ereefs>> viewed 18 January 2016.

11 Ms Claire Hanratty, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, Brisbane, 14 July 2015, p. 34.

12 Mr Mark Ritchie, Executive Officer, Landcare Tasmania, *Committee Hansard*, Hobart, 21 July 2015, p. 25.

- 4.23 Mr Ritchie went on to outline some of the practical ways in which Landcare Tasmania supports its member groups:

We provide a range of membership services to our groups, and that includes strategic planning, administrative support, and auspicing and supporting non-incorporated groups to deliver projects and funding. We also provide an insurance scheme for our volunteers so that they can operate with public liability and volunteer insurance as well.¹³

- 4.24 Ms Katherine Smolski, Chief Executive Officer of the Nature Conservation Council of NSW, described how the organisation provides information to its member groups and supporters to enable them to understand and participate in policy development and law reform processes.¹⁴

- 4.25 Conversely, Mr Larry O'Loughlin, Assistant Director of the Conservation Council ACT Region, stated that the organisation draws on the collective knowledge of its member groups to advocate for environmental policies.¹⁵

- 4.26 The Committee also heard evidence from several environmental DGRs about their role as representatives on statutory boards and committees.¹⁶

- 4.27 Several organisations provided examples of how advocacy work had influenced the development of environmental policy. For example, Mr Piers Verstegen, Director of the Conservation Council of Western Australia, explained how the organisation had successfully advocated for additional environmental regulation in Western Australia:

When the relatively smaller number of organisations originally came together to form the Conservation Council, one of the things they were very concerned about was that the state did not have any stand-alone pollution control regulation. We did not have any stand-alone environmental impact assessment process or agency to conduct that. They embarked on a program of representation and advocacy and community awareness raising to support that being adopted by the state government, and eventually it was.¹⁷

13 Mr Ritchie, Landcare Tasmania, *Committee Hansard*, Hobart, 21 July 2015, p. 25.

14 Ms Katherine Smolski, Chief Executive Officer, Nature Conservation Council of NSW, *Committee Hansard*, Sydney, 17 November 2015, p. 13.

15 Mr Larry O'Loughlin, Assistant Director, Conservation Council ACT Region, *Committee Hansard*, Canberra, 18 September 2015, p. 27.

16 For example, see: Conservation Council of South Australia, *Submission 424*, p. 3; Mr Piers Verstegen, Director, Conservation Council of Western Australia, *Committee Hansard*, 3 September 2015, p. 5; Ms Christine Goonrey, Vice President, National Parks Association of the ACT Inc., *Committee Hansard*, Canberra, 18 September 2015, p. 11.

17 Mr Piers Verstegen, Director, Conservation Council of Western Australia, *Committee Hansard*, Perth, 3 September 2015, p. 5.

- 4.28 Similarly, in its submission to the inquiry, the Wentworth Group of Concerned Scientists described how the organisation's policy advocacy had contributed to the development of the Murray Darling Basin Plan.¹⁸
- 4.29 Much of the evidence in relation to advocacy emphasised the 'mutually supportive' relationship between policy advocacy and representation and the other activities undertaken by environmental DGRs.¹⁹
- 4.30 The Hon. David Harper AM QC submitted that advocacy is often necessary to create the conditions for environmental work, such as remediation, to be effective:
- While nature conservation activities, such as tree-planting, have great value to the environment, they exist within a broader social, political and regulatory context; and sometimes advocacy is necessary before such essentials as supporting legislation or funding can be put in place.²⁰
- 4.31 This perspective was supported by the Conservation Council of South Australia. However, the organisation also submitted that its advocacy work is informed by its environmental work in the field:
- Protection of the environment is not something that can be achieved by practical on-ground action alone; you need policies to support them and give them a lasting legacy, and you need regulation, incentives and a range of other tools. Supportive policy is frequently a product of advocacy. Equally, our advocacy and community education are strongly informed by our hands-on work in the field.²¹
- 4.32 Some stakeholders also submitted that advocacy is, in some cases, a more efficient method of achieving environmental outcomes than remediation. For example, Ms Karen Alexander, Vice President of the Farm Tree and Landcare Association, discussed the example of land clearing as a cause of habitat loss and land degradation:
- Landcare groups are starting to say: 'We want to prevent that cause. We want to reduce that cause. We are not just here to cure it.' The issues have expanded to prevention. It is far more efficient to prevent the problem than it is to come in later and cure it.²²
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18 Wentworth Group of Concerned Scientists, *Submission 272*, p. 3.

19 Mr Larry O'Loughlin, Assistant Director, Conservation Council ACT Region, *Committee Hansard*, Canberra, 18 September 2015, p. 27.

20 The Hon. David Harper AM QC, *Submission 59*, p. 1.

21 Mr Craig Wilkins, Chief Executive, Conservation Council SA, *Committee Hansard*, Adelaide, 1 September 2015, pp. 1-2.

22 Ms Karen Alexander, Vice President, Farm Tree and Landcare Association, *Committee Hansard*, Melbourne, 21 September 2015, p. 37.

4.33 Further to this evidence, some stakeholders submitted that advocacy and participation in the policy process might be the only effective response to particular environmental issues. Dr Joyce Chia, representing the Not-for-profit Project with the University of Melbourne Law School, explained:

If you are interested in climate change, you cannot just plant trees; to fulfil your purpose would, in many cases, require a degree of engagement with the political process.²³

4.34 Similarly, Mr Paul Sullivan, Chief Executive Officer of BirdLife Australia, emphasised the essential role of advocacy in cases where threatened species might be affected by government policies:

There are some issues where public policy engagement and advocacy is the only thing we can do to try to get governments to adopt strategic burning in areas that are sensitive to threatened species. We cannot do anything else.²⁴

4.35 Some inquiry participants raised concerns about the advocacy undertaken by some environmental DGRs. These concerns are outlined in Chapter 5 (in particular, paragraphs 5.31 to 5.57).

Other activities

4.36 The Committee also heard from environmental DGRs undertaking a variety of other activities, including: land conservancy and covenanting; rehabilitation of native wildlife; law advocacy and legal representation; and the protection of endangered species in other countries.

Land conservancy

4.37 Several environmental DGRs described their involvement in acquiring and managing land of high conservation value or partnering with private landholders to improve conservation outcomes.

4.38 For example, in its submission, The Nature Conservancy explained how the organisation has supported the conservation of nationally-important properties with under-represented ecosystems and habitat for a range of threatened species:

With partner organisations and the Australian Government we have directly funded the acquisition or management of 29

23 Dr Joyce Chia, former Research Fellow, Not-for-profit Project, University of Melbourne Law School, *Committee Hansard*, Melbourne, 22 September 2015, p. 15.

24 Mr Paul Sullivan, Chief Executive Officer, BirdLife Australia, *Committee Hansard*, Melbourne, 21 September 2015, pp. 26–27.

properties covering 3.55 million ha, including some of Australia's largest privately-funded protected areas.²⁵

- 4.39 The Queensland Trust for Nature outlined how it operates a revolving fund to purchase and then on-sell land after establishing a covenant, or conservation agreement, in perpetuity:

... the conditions of that agreement usually involve management conditions specific to whether it is a certain type of ecosystem or species. It may be an endangered turtle, and we talk about activities that can take place in nesting areas ... So the agreements are specific to the parcel of land that we are protecting.²⁶

- 4.40 Similarly, Bush Heritage Australia and the Tasmanian Land Conservancy explained how the Midlands Conservation Fund was established to fund stewardship agreements with landholders to safeguard remnant native grasslands and woodlands on private land.²⁷

- 4.41 At a public hearing, Dr Sally Bryant, Acting Chief Executive Officer of the Conservancy, emphasised that the work of the organisation involved a broad range of activities, including on-ground work such as weeding, pest control, and monitoring, as well as public education and promotional work.²⁸

Wildlife rehabilitation

- 4.42 The Committee heard evidence from a number of environmental DGRs that operate wildlife shelters or wildlife rescue facilities.

- 4.43 For example, in its submission to the inquiry, Native ARC explained how its activities involve the treatment and rehabilitation of sick and injured native wildlife. At its rehabilitation centre, the organisation operates an all-hours service at no charge to the public. Approximately 2,500 animals are admitted to the centre annually.²⁹

- 4.44 During its program of site inspections in Perth, the Committee visited the rehabilitation centre and learned about the process of treating animals for release into the wild. The Committee also heard about the organisation's education, training, and corporate volunteering programs.

25 The Nature Conservancy, *Submission 406*, p. 1.

26 Ms Tanya Pritchard, Conservation Officer, Queensland Trust for Nature, *Committee Hansard*, Brisbane, 14 July 2015, p. 21.

27 Tasmanian Land Conservancy, *Submission 327*, p. 2; Bush Heritage Australia, *Submission 408*, p. 1.

28 Dr Sally Bryant, Acting Chief Executive Officer, Tasmanian Land Conservancy, *Committee Hansard*, Hobart, 21 July 2015, p. 18.

29 Native ARC Inc., *Submission 564*, p. 1.

Environmental law advocacy

- 4.45 The Committee received evidence from several environmental DGRs providing legal advice and representation, and engaging in advocacy in relation to environmental law.
- 4.46 In its submission to the inquiry, the Australian Network of Environmental Defenders Offices (EDOs of Australia) explained that its community legal centres provide a range of services in relation to the spectrum of state and federal environmental and planning laws, including education programs to facilitate public participation in environmental decision-making and policy development and law reform work.³⁰
- 4.47 The organisation also outlined its involvement in providing legal advice and representation in public interest litigation on environmental matters. For example, in 2013–14 its NSW office provided advice over the phone to 1,029 clients and written advice to 205 clients, and represented 10 clients in litigation matters.³¹
- 4.48 At a public hearing of the inquiry, representatives of EDOs of Australia stated that ‘ensuring that environmental laws are strong, comprehensible, and applied’ is ‘a vital component of the range of activities that contribute to on-ground environmental outcomes’.³²
- 4.49 Similarly, the Tarkine National Coalition submitted that its involvement in litigation matters is consistent with its role of advocating for the protection of the natural environment.³³

Overseas activities

- 4.50 Lastly, the Committee heard from several environmental DGRs whose activities involve the protection of endangered species in other countries.³⁴
- 4.51 In 2013–14, organisations were asked by the Department of the Environment (the Department) to report on the percentage of expenditure supporting activities conducted outside Australia. Of the 48 organisations that reported conducting overseas activities, 16 organisations allocated more than 75 per cent of their expenditure overseas.³⁵

30 EDOs of Australia, *Submission 403*, pp. 20–28.

31 EDOs of Australia, *Submission 403*, p. 24.

32 Ms Rachel Walmsley, Policy and Law Reform Director, EDO New South Wales, EDOs of Australia, *Committee Hansard*, Sydney, 17 November 2015, p. 36.

33 Tarkine National Coalition, *Submission 181*, p. 2.

34 For example, see: The Orangutan Project, *Submission 254*; Wildlife Asia, *Submission 277*; Painted Dog Conservation Inc., *Submission 324*.

35 Department of the Environment, *Submission 185*, p. 10.

- 4.52 In its submission to the inquiry, The Orangutan Project outlined how the organisation funds projects in Indonesia to support species conservation and rainforest protection.³⁶
- 4.53 Mr Leif Cocks, President of The Orangutan Project, explained how he inspects each of the organisation's projects to evaluate the results:
- If we have a rescue unit, are orangutans being rescued? ... If we have a wildlife protection unit, are they protecting the forest? Using satellite imaging and drone flights we check: are the trees still there or not; are the camera traps picking up tigers in abundance still, or have the tigers disappeared because the wildlife protection unit has not been effective?³⁷
- 4.54 The Orangutan Project also submitted that activities directed at the protection of animals in their natural environment in other countries benefit environmental protection in Australia:
- Such activities acknowledge, draw attention to, and reinforce the interdependencies between environments ... In other words, in an interdependent world, protecting environments in other countries can over time have a direct impact on Australia's environment. This is particularly true when the environments are 'global commons' such as rainforest and oceans.³⁸
- 4.55 The Department noted that current guidelines and legislation do not restrict the activities of environmental DGRs to those conducted within Australia.³⁹ However, in a supplementary submission to the inquiry, the Department advised that the Australian Government intends to legislate to require DGRs to operate principally in Australia.⁴⁰

Scope of the principal purpose test

- 4.56 As discussed throughout this chapter, the Committee received evidence about a wide range of activities undertaken by environmental DGRs.

36 The Orangutan Project, *Submission 254*, pp. 2-3.

37 Mr Leif Cocks, President, The Orangutan Project, *Committee Hansard*, Perth, 3 September 2015, p. 10.

38 The Orangutan Project, *Submission 254*, pp. 3-4.

39 Department of the Environment, *Submission 185*, p. 10.

40 Department of the Environment, *Submission 185.2*, p. 6; Senator the Hon. Arthur Sinodinos, Assistant Treasurer, 'Integrity restored to Australia's taxation system', *Media Release*, 14 December 2013.

- 4.57 The diversity of environmental DGRs was noted by representatives of the Department, who suggested that this was illustrative of the breadth of the principal purpose test.⁴¹
- 4.58 As outlined in Chapter 2, the *Income Tax Assessment Act 1997* (Cth) requires that environmental DGRs have a principal purpose of:
- the protection and enhancement of the natural environment or of a significant aspect of the natural environment; or
 - the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.
- 4.59 It was suggested by some stakeholders that it was appropriate for the relevant test in legislation to relate to the purpose of an organisation and not its activities. Professor James Goodman explained:
- The public benefit of environmental organisations rests in their purpose, that is, to advance the ‘protection of the environment’, not in how they seek to achieve that purpose.⁴²
- 4.60 However, the Committee heard concerns from other stakeholders about some of the activities that environmental DGRs undertake to further their principal purpose. This evidence is discussed in detail in Chapter 5.
- 4.61 Stakeholders also expressed concern about the lack of clarity surrounding the Department’s interpretation of the principal purpose test. For example, Senator Matthew Canavan argued that the Department’s interpretation of the ‘information, education, or research’ provision is not well explained.⁴³ Senator Canavan recommended additional guidance to set out activities that are both eligible and ineligible under this provision:
- I think that with more detailed guidelines and explanations of [terms contained in the principal purpose test] we would have a Register that would be better focused on providing support to organisations that do have an environmental purpose, be that on-the-ground activity or education or research.⁴⁴
- 4.62 EDOs of Australia submitted that the Department’s interpretation of the ‘natural environmental’ should evolve with contemporary understanding of environmental issues and the modification of the Australian landscape, and could be updated to include the built environment and heritage.⁴⁵

41 Mr Simon Writer, General Counsel, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 13.

42 Associate Professor James Goodman, *Submission 175*, p. 4.

43 Senator Matthew Canavan, *Submission 493*, pp. 23–26.

44 Senator Matthew Canavan, *Committee Hansard*, Brisbane, 14 July 2015, p. 13.

45 EDOs of Australia, *Submission 403*, p. 12; Law Council of Australia, *Submission 662*, pp. 4–5.

- 4.63 Several submissions argued that the principal purpose test should be amended to make it consistent with the decision in 2010 of the High Court of Australia in *Aid/Watch Incorporated v Commissioner of Taxation*.⁴⁶
- 4.64 The Law Council of Australia explained the implications of the decision:
- The High Court recognised that in a representative democracy, activities that ‘agitate’ for legislative or policy change serve a public benefit. Where those activities seek to further a charitable purpose, the advocacy activities are a legitimate extension of the activities of a charitable organisation.⁴⁷
- 4.65 The judgement was subsequently reflected in the *Charities Act 2013* (Cth), which recognises that charities can have a sole purpose of ‘promoting or opposing a change to any matter established by law, policy or practice in the Commonwealth, a State, a Territory or another country’.⁴⁸
- 4.66 The Law Council of Australia argued that the *Aid/Watch* decision is relevant to the administration of DGR status.⁴⁹
- 4.67 Similarly, Professor James Goodman submitted that the *Aid/Watch* decision established that the constitutional right to freedom of political communication applies to the availability of tax concessions for non-government organisations, and should therefore apply to DGR status. However, Professor Goodman also noted that this had not been tested.⁵⁰
- 4.68 It was noted in evidence that the explicit inclusion of advocacy in the principal purpose test for environmental DGRs would not necessarily broaden the scope of the test, but it would provide certainty to DGRs engaged in advocacy in relation to environmental matters.⁵¹
- 4.69 Consistent with this evidence, numerous submissions to the inquiry recommended that advocacy and related activities continue to be recognised as being consistent with the existing principal purpose test.⁵²
- 4.70 Some stakeholders suggested that environmental DGRs be required to undertake particular activities. For example, the Queensland Resources Council submitted that a proportion of the activities and expenditure of

46 *Aid/Watch Incorporated v Commissioner of Taxation* (2010) 241 CLR 539; Public Law and Policy Research Unit, University of Adelaide, *Submission 40*, p. 5; Associate Professor James Goodman, *Submission 175*, p. 4; *Aid/Watch*, *Submission 576*, p. 5.

47 Law Council of Australia, *Submission 662*, p. 6.

48 *Charities Act 2013* (Cth), s. 12(1).

49 Law Council of Australia, *Submission 662*, p. 6.

50 Associate Professor James Goodman, *Submission 175*, p. 2–3.

51 Mr Gareth Bryant, Committee of Management Representative, *Aid/Watch*, *Committee Hansard*, Sydney, 17 November 2015, pp. 29–30; Associate Professor James Goodman, private capacity, *Committee Hansard*, Sydney, 17 November 2015, p. 33.

52 For example, see: EDOs of Australia, *Submission 403*, p. 9.

environmental DGRs be directed towards ‘genuine on-the-ground conservation work’.⁵³

- 4.71 Similarly, the Energy Resource Information Centre submitted that DGR status should recognise ‘work performed in the community with direct benefit to the community’. The organisation recommended that environmental DGRs be required to spend a proportion of donated funds on ‘actual physical works in natural environs’.⁵⁴
- 4.72 Some stakeholders suggested that the Committee consider the restrictions applied to the activities of Canadian charities.⁵⁵ In Canada since 2003, a charity is required to spend no more than 10 per cent of its resources on ‘political activity’, with slightly higher limits for smaller charities.⁵⁶
- 4.73 The Public Law and Policy Research Unit of the University of Adelaide explained the Canadian Charities Directorate’s guidance on the matter:
- ... the guidance provides that ‘political activity’ is confined to explicit communications either relating to contacts with or pressure on officials, or explicit communications to the public of an organisation’s stance on an issue.⁵⁷
- 4.74 The Public Law and Policy Research Unit also noted some criticism of the Canadian approach, which included that it could be difficult for charities to determine whether a particular activity would be considered charitable or political and that resources may be diverted away from charitable work to reporting and compliance activities.⁵⁸
- 4.75 These concerns were reiterated by several other stakeholders, who noted that restrictions based on particular activities could involve a significant reporting and compliance burden and be difficult to achieve in practice.⁵⁹

53 Mr Michael Roche, Chief Executive, Queensland Resources Council, *Committee Hansard*, Brisbane, 14 July 2015, p. 2.

54 Energy Resource Information Centre, *Submission 577*, pp. 1–3.

55 For example, see: Australian Taxpayer’s Alliance, *Submission 492*, pp. 5–6; Minerals Council of Australia, *Submission 497*, p. 29.

56 Public Law and Policy Research Unit, University of Adelaide, *Submission 40.1*, pp. 4–5; Department of the Environment, *Submission 185.1*, pp. 9–10; EDOs of Australia, *Submission 403*, p. 17; Law Council of Australia, *Submission 662*; p. 10.

57 Public Law and Policy Research Unit, University of Adelaide, *Submission 40.1*, pp. 4–5.

58 Public Law and Policy Research Unit, University of Adelaide, *Submission 40.1*, pp. 5–6;

59 For example, see: Mr Paul Sullivan, Chief Executive Officer, BirdLife Australia, *Committee Hansard*, Melbourne, 21 September 2015, p. 25; Ms Karen Alexander, Vice President, Farm Tree and Landcare Association, *Committee Hansard*, Melbourne, 21 September 2015, pp. 36–37; Professor Ann O’Connell, Not-for-profit Project, University of Melbourne Law School, *Committee Hansard*, Melbourne, 22 September 2015, p. 13.

Committee comment

- 4.76 During the course of the inquiry, the Committee has received extensive evidence from a large number of environmental DGRs about their activities.
- 4.77 The Committee acknowledges the significant and ongoing contribution of environmental DGRs to the protection and enhancement of the natural environment in all states and territories across Australia.
- 4.78 It is clear from the evidence presented to the Committee that a diverse range of activities contribute to meaningful and lasting environmental outcomes, and that environmental DGRs typically undertake a number of different activities to further their principal purpose. In particular, the Committee notes the evidence from environmental DGRs about the mutually supportive relationship between advocacy and other activities, such as environmental remediation work.
- 4.79 Having regard to the terms of reference of the inquiry, the Committee is of the view that the purpose of granting DGR status to environmental organisations should be to support practical environmental work in the community.
- 4.80 While acknowledging the benefits of a diverse range of environmental work, the Committee wishes to ensure that the concessions conferred on environmental DGRs are directed, at least in some part, at environmental work that achieves clear on-ground environmental outcomes.
- 4.81 The Committee therefore supports the proposition that environmental DGRs should, as a condition of attracting DGR status, be required to undertake a mix of activities, and that this mix should include practical environmental work such as remediation.

Recommendation 5

The Committee recommends that legislative and administrative changes be pursued by the Australian Taxation Office to require that the value of each environmental deductible gift recipient's annual expenditure on environmental remediation work be no less than 25 per cent of the organisation's annual expenditure from its public fund.

- 4.82 The Committee accepts that definitional issues may arise from this recommendation, and will need to be addressed by government. To assist with this, the Committee's view is that activities that should qualify as

remediation work include revegetation, wildlife rehabilitation, plant and animal pest control, land management, and covenanting.

- 4.83 On the other hand, the Committee's view is that 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.
- 4.84 Expenditure applied directly to remediation work should qualify, as well as ancillary activities that support remediation, in so far as those activities are necessary to the carrying out of remediation work (for example, administrative work to secure necessary permits).
- 4.85 Environmental DGRs may also provide funding to other environmental organisations to undertake remediation work in order to meet this requirement. However, to maintain the integrity of the system, it is the Committee's view that only funding to other environmental DGRs should qualify and all funding arrangements should comply with the no-conduit policy (see Chapter 6).
- 4.86 The Committee expects that environmental DGRs would be required to report on their expenditure to the Australian Taxation Office on an annual basis to demonstrate compliance with this requirement. The Committee acknowledges that this may involve a period of adjustment for some organisations.
- 4.87 In making this recommendation, the Committee anticipates that such a requirement would not restrict the freedom of environmental DGRs to engage in advocacy or public debate, nor would it exclude organisations engaging in these activities from attracting DGR status.

