



**Australian Government**  
**Productivity Commission**

**PRODUCTIVITY COMMISSION**

**PHILANTHROPY INQUIRY**

**DR ALEX ROBSON, Deputy Chair**  
**MS JULIE ABRAMSON, Commissioner**  
**MR KRYSTIAN SEIBERT, Associate Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**MELBOURNE, THURSDAY 22 FEBRUARY 2024**

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**DR A. ROBSON:** All right. I think we've got attendees. All right, so let's get underway, everyone. So good morning and welcome to these public hearings online, following the release of our Philanthropy Inquiry draft report. My name is Dr Alex Robson, I'm the Deputy Chair of the Productivity Commission and the Presiding Commissioner on this inquiry. I'm joined online today by Commissioner Julie Abramson and Associate Commissioner Krystian Seibert. Before we begin today's proceedings I'd like to begin by acknowledging the traditional custodians of the lands on which we're meeting and pay my respects to elders past and present.

I'm just going to give a brief opening statement, and then we'll go to the first participant today. The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. We apply robust, transparent analysis and we adopt a community wide perspective. Our independence is underpinned by the Productivity Commission Act of 1998 and our processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

The purpose of this public hearing is to facilitate comments and feedback on the draft Productivity Commission report, Future Foundations for Giving. In this report the Commission concluded that there can be good reasons for governments to support all forms of giving, whether money, time or lending a voice. In addition to supporting the provision of goods and services valued by the community, giving – particularly volunteering – and contribute to social capital. The Commission identified practical changes that would promote giving and benefit the Australian community. We're seeking feedback on those proposals today.

The Commission also notes however that all government support ultimately derives from taxpayers and that there's no such thing as a free lunch, including when it comes to policy options for supporting philanthropy. All policy choices involve trade-offs, costs and benefits. Our interest is in understanding what those trade-offs look like and how to improve the terms of those trade-offs, noting that our community-wide perspective means that we're focused on making recommendations that maximise the welfare of the Australian community as a whole. The draft report focuses on three main areas which were designed to establish firm foundations for the future of philanthropy so that the benefits of giving can be realised across Australia.

Three main areas of reform are as follows. First, DGR reform. Refocusing which charities can receive tax deductible donations to help donors direct support to where there is likely to be the greatest net benefits to the community as a whole. Second, regulation. Bolstering the regulatory system by enhancing the ACNC's powers in creating regulatory architecture to improve coordination and information sharing among regulators. And third and finally, information. Improving public information on charities and giving to support donor choice and accountability.

The Commission's draft report did not recommend removing the charitable status of any entity or class of entities. On the first reform area, the Commission found that the current DGR system lacks a coherent policy underpinning and we've sought to address this by developing a principles-based framework for DGR eligibility that focuses on charitable activities rather than entities. The three principles are as follows. First, there should be a rationale for Australian Government support because the activity in question has net community-wide benefits and would otherwise be undersupplied. Second, there are net benefits from providing Australian Government support for the activity through subsidising philanthropy in particular.

And, third, there is unlikely to be a close nexus between donors and beneficiaries, such as the material risk of substitution between fees and donations. The Commission has applied these

three principles to determine which charitable activities would maintain the same DGR status, and for which activities there would be a change. Overall, we estimate that between 5000 and 15,000 more charities would have access to tax deductible donations under the proposed reforms. About 5000 charities, mainly school building funds and charities that provide religious education in government schools, would have DGR status withdrawn.

Initial responses to the draft report have predominantly focused on the reforms to the DGR system. We've received a high volume of feedback centred around entities that will have their DGR status withdrawn. There has also been support for broadening eligibility of DGR status, including those engaged in advocacy and prevention activities. The Commission's draft recommendation on school building funds would apply equally to government, non-government, secular and religious education providers. Where there are sound reasons for governments to support the provision of school infrastructure, our preliminary view is that providing tax deductions for donations for school buildings is unlikely to be the best way to direct that support to where it's needed most.

Submissions have also focused on the Commission's recommendation that the status quo be maintained for entities whose sole charitable purpose is advancing religion. Currently these entities do not have access to DGR status. The Commission recognises that religious organisations play an important and valued role in the lives of many Australians. Religious faith and values can and do provide inspiration for donating and for undertaking a range of charitable activities in the community. The contribution that such entities make is one reason why they are already able to access some tax concessions associated with their status as charities, such as an income tax exemption. The Commission has not recommended any changes to these other tax concessions.

However, the Commission did not find a strong policy rationale in terms of net additional community benefits for changing the status quo and expanding DGR to charities with the sole purpose of advancing religion. On the other hand, some charities with the advancing religion subtype already undertake additional separate charitable activities, such as advancing social and public welfare. Under our proposed reforms – which would expand the scope of DGR – these entities could gain DGR status for these other separate activities. There are also charities with a religious ethos currently endorsed as DGRs, such as public benevolent institutions working to address disadvantage. They would continue to be eligible.

So we welcome further feedback on these proposed reforms to the DGR system in these hearings. In particular, we welcome feedback on the principles, how they've been applied, and the likely impacts of the changes and the benefits and costs of alternative proposals. The second group of reforms is to strengthen the regulatory framework to enhance the ACNC's powers and improve the regulatory architecture. Given that trust and confidence in charities underpins philanthropic giving, the Commission has made various proposals to enhance the regulatory framework. We proposed the establishment of a National Charity Regulators Forum underpinned by an intergovernmental agreement.

This would build formal regulatory architecture to help regulators prevent and manage regulatory issues, coordinate joint responses to misconduct concerns and improve information sharing. The proposal also seek to ensure that all charities are subject to consistent regulation by the ACNC based on their size, and some incremental changes to the ACNC's powers are also put forward. The final of the three reform areas is to improve public information and enhance access to philanthropy, including for Aboriginal and Torres Strait Islander people and organisations.

The Commission identified that Government sources of public information about charities do not promote informed donor decisions and public accountability as well as they could.

The draft report includes draft recommendations to enhance the utility of data that the Government provides about charities, giving and volunteering. It also recommends that disclosure and reporting of corporate giving and charitable request be improved. The Commission also heard some Aboriginal and Torres Strait Islander communities are furthering their own goals through partnerships with philanthropy. On the other hand, we also heard that the approaches of some philanthropic funders may not align with the aspirations, priorities and needs of some Aboriginal and Torres Strait Island communities and that there are opportunities to enhance access to philanthropic networks. In response, the Commission has proposed that the Australian Government support the establishment of an independent, philanthropic foundation designed and controlled by Aboriginal and Torres Strait Islander people. The foundation would focus on strengthening the capacity of Aboriginal and Torres Strait Islander communities, to build partnerships with philanthropic and volunteering networks. These draft recommendations would establish firm foundations for the future of philanthropy, so that the benefits of giving can continue to be realised across Australia.

We're grateful to all the organisations and people that have taken the time to prepare submissions and to appear at these hearings. As of 9 February we received over 1200 final submissions and over 1400 brief comments since the draft report. This is the sixth and final public hearing for this inquiry. We'll then be working towards completing a final report due to the Australian Government in May, having considered all the evidence presented at the hearings and its submissions, as well as other discussions. Participants and those who have registered their interest in this inquiry will be advised of the final report's release by government, which may be up to 25 parliamentary sitting days after completion.

Now, for the benefit of those joining us online, we like to conduct all hearings in a reasonably informal manner, but I would like to remind participants that there's clear structures in our legislation for how these hearings are legally backed, and a full transcript is being taken and the session is being recorded. For this reason, comments from the floor or online cannot be taken, but at the end of the day's proceedings I will provide an opportunity for anyone who wishes to do so to make a brief presentation. The transcript taken today will be made available to participants and will be available from the Commission's website following these hearings.

Submissions are also available on the website. As a reminder, participants are not required to take an oath, but they are required under the Productivity Commission Act to be truthful in their remarks. Participants are welcome to comment on the issues raised in other submissions. I also ask participants to ensure that their remarks are not defamatory of other parties. As we listen to each participant, I will invite you to make some opening remarks of no more than five minutes if you can. Keeping the opening remarks brief will allow us the opportunity to discuss matters in participants' submissions in greater detail.

So I would now like to welcome the first participants today, which are from Volunteering Victoria. Once you are in the meeting, could you please state your name and organisation for the record, and then we'd be happy to hear your opening statement and then we can start with questions, thank you. I think we've got Gillian.

**MS G. GARNER:** Good morning. Can you hear me now?

**DR ROBSON:** We can hear you.

**MS GARNER:** Yes, hello. So I am Gillian Garner. I am the policy officer at Volunteering Victoria and I would like to acknowledge the traditional owners of the land on which we and I am meeting today, which is the Wurundjeri people of the Kulin nation, and pay my respects to their elders, past and present. We had thought that Geoff Sharp, who is our CEO, may attend. I think that he is listening in, but he will not be giving any comments at this point. It will really just be me, if that's okay?

**DR ROBSON:** Yes. Thank you, Gillian. Could you just turn on your camera if that's possible? We can't see you.

**MS GARNER:** Yes.

**DR ROBSON:** Excellent. Thank you. If you would like to make an opening statement, go ahead with that, and then we'll get onto questions.

**MS GARNER:** Okay. I will make just a short one and really just to say that we are very encouraged with the recognition that the draft report gives to volunteering as a significant and distinct form of philanthropy, acknowledging the critical contribution of volunteering to society and community. We know that volunteering requires equal and very specific consideration, research and planning, and policy development and initiatives aimed at strengthening the not-for-profit sector. The substantial contribution of volunteering is crucial to the functioning of many and very diverse organisations, like community groups, community organisations, local councils, larger not-for-profits, all in the delivery of community support across all sectors of community.

Sports, religious organisations, education and training, health and welfare, and of course many of those rely entirely on volunteers. Many of these services would not otherwise be delivered without the combination of the power of volunteers, the significant government investment, and volunteering support infrastructure. And, of course, many community organisations are also volunteer led due to the voluntary nature of board and governance positions and the growing responsibilities – regulatory, fiduciary, risk management – on them are very onerous. Clearly there have been many, many submissions made. Volunteering Victoria has obviously been part of the Volunteering Australia submission as well.

So we have restricted ourselves to three particular areas that we thought might be useful in terms of drawing your attention. One is ensuring that those who give their time and skills are adequately protected. The fact that proper consideration needs to be given to how policy can and does shape voluntary contributions, and then of course steps that could be taken to foster this culture of giving in Australia. This opportunity uniquely allows for the development of case based initiatives and solutions, valuing and prioritising lived experience and community led responses. And by strengthening place based volunteer programs and support services, this will support communities to future social changes and allow them to thrive. I think that's really all I need to say. Most of it is in our submission.

**DR ROBSON:** Thank you, Gillian. I think, Julie, you had some questions to start with.

**MS J. ABRAMSON:** I do. Thank you, Gillian. Thank you so much for your contribution to the inquiry. I am very interested in what you have to say about insurance. And you have given us quite a lot of detail but I'd like to hear a bit more about that. The other issue is whether or not any of the peak bodies have tried to place insurance more generally. Because lots of, you know,

employer associations, for example, have pooled insurance for members and they can get a good rate. So we're very interested because it seems from what you're saying that you see a market failure in the provision of insurance.

**MS GARNER:** Yes. And I think that the submission shows – points out that there are different reasons why perhaps insurance is not in place. I guess a primary one that comes to our attention is that the very small not-for-profits just don't have the money to go and purchase the volunteer insurance. Sometimes quite often they will have public liability insurance, just because they feel they need to have it, and maybe that's a little bit cheaper. But when it comes to insuring their volunteers and personal accident insurance that is not always in place. So although we obviously support our whole sector in Victoria, we are a membership based organisation, and if organisations join our organisation we ask these questions – whether they have insurance – and we'd clearly encourage them to do so.

But we have had situations where the smallest – who may have to pay \$70 for a membership fee – can't pay the membership fee and try and take out insurance at the same place – at the same time. And so then it's a choice. Do you go with getting the support of your state peak authority or do you take out insurance? Clearly insurance is critical. We certainly have explored it. It's an issue across all the states. Volunteering Australia has also taken up the call. We obviously explore it within our own state because we do have the Victorian Managed Investment Association, VMIA, who would fund government funded not-for-profits. But, of course, as you would know, a lot do not receive government funding and so do not fall within that ambit.

So I guess it is exploring whether a state peak body could perhaps auspice the smaller organisations to come on board – so to make sure they are – so as we might be covered under VMIA, could the small ones that perhaps can't get insurance tag onto ours. And that is the case with organisations like Neighbourhood Houses in Victoria where the peak body has the primary membership and then if they are part of that organisation they would also be covered. So there's certainly options. It's just that we feel we haven't really got very far when we've talked to insurance companies and when we've talked to government. And it's whose responsibility? So insurance companies might – will often say you need to go to government and government will say, well, you need to explore this as an insurance company. So clearly there's a gap.

**MS ABRAMSON:** Gillian – thank you for that – can I be a bit more precise. So it's not a case of market failure in the sense that it's not that insurance is not available, it's that it's not affordable. That's the issue.

**MS GARNER:** Absolutely.

**MS ABRAMSON:** Yes, okay.

**MS GARNER:** Absolutely. Yes. It's the affordability, yes. And I think, of course, it is also whether your small little volunteer involving organisations are aware that this is a responsibility they need to cover. So often they will think, 'Oh, we've got public liability insurance we'll be fine. And so when you explore it more with them and you show them that well if the volunteer themselves is hurt while they're doing whatever they're doing, they may not be covered – they won't be covered under public liability insurance. So there is an education information component to it.



**MS ABRAMSON:** And they're not – I know my colleague, Krystian, wanted to ask something – and they're not covered under WorkCover because they're not regarded as employees for the purposes of - - -

**MS GARNER:** They're not.

**MS ABRAMSON:** Yes, okay.

**MS GARNER:** Exactly. And there are obviously specific cohorts of volunteers that are included because government has realised they need to be. So you're, you know, SES, CFA volunteers - - -

**MS ABRAMSON:** Yes, emergency services.

**MS GARNER:** (Indistinct.)

**MS ABRAMSON:** Yes.

**MS GARNER:** This is your little organisations that are relying completely on volunteers to do certain things – they are the ones that either can't afford it, don't know about it and need some sort of support.

**MS ABRAMSON:** No, I understand. Thank you, Gillian. Krystian?

**MR K. SEIBERT:** Thank you, Gillian, for joining us today and for your submissions and engagement with the inquiry. Just on insurance, a lot of the insurance providers are large corporates – large companies. Do they engage with volunteering groups and other groups, so through their corporate social responsibility sort of frameworks around, you know, that insurance is an issue for some of your members, and can they sort of do something in a philanthropic sense, for example, to provide subsidised insurance, sort of, you know, which includes, sort of, a philanthropic contribution in terms of lowering the price compared to what it otherwise would be were they to just sell it on the open market? So do they engage in that kind of way, or not?

**MS GARNER:** I don't – I can't speak to all of the different companies. I know we do a lot of work and Volunteering Australia does work with Aon. And they all certainly do have resources that would help little organisations find out what insurance would be appropriate. They would still be charging them a fee for whatever that insurance – insurance is. My understanding is that there are no discounts, but I would have to – I'm not sure what the position is and we would need to find out. We are fairly careful when it comes to organisations asking us who they could go and get their insurance through, because we just don't know enough about it and we clearly can't promote it.

So our main sort of area of knowledge, I guess, is through Aon just because we are much more involved with them and they are certainly involved in the sector. And then through VMIA in Victoria.

**MR SEIBERT:** Okay, yes. I've got other questions, but I'll go to Alex if you want to ask about this or something else?

**DR ROBSON:** Yes, I didn't have a question about this. I was going to move on to the recommendations, Gillian, on volunteering and, you know, the extent to which governments

should take volunteering into account when it's developing policies. I think it's later in the report. So I wonder if you had any comment – I know you mentioned it in your opening statement – but what do you think of that particular recommendation that, you know, governments when they're designing major programs and policies have regard to the impacts on volunteering?

**MS GARNER:** Well, absolutely. And we would agree with the statements that are made in the draft report. I mean because I think, you know, we've had first-hand experience of it with NDIS in Victoria. And I mean we have got to a point we have – they – to give credit to our worker screening unit here in Victoria – and we are lucky because all our screening gets done within one unit, and so there's a lot of information that comes from different types of screening which can inform what's happening. But because there was no recognition of volunteers as a workforce as such, in NDIS when that screening first came into place it caused enormous challenges for our sector. And so I think, yes, absolutely. We – I think that somehow – if that recognition happens right at the beginning in the initial policy, clearly the legislation and regulations are going to take that into account and it would help.

So I think there is no concept of the numbers of volunteers in these risk assessed roles. Absolutely. I think there is an assumption that volunteers were not in those roles, only paid staff were. And that was – very quickly they understood that. And we did tell them that before the regulations came in. But do you know there's also a sort of suspicion that maybe people will take advantage of it. I mean a lot of our screening in Victoria is free because of our advocacy of our organisations and similar organisations to us like VCOSS and Justice Connect. But there's still the hassle of the admin and the screening and the processing. And so then there's a fear, perhaps, within government that people will pretend to be volunteers.

Now clearly on NDIS that's not going to happen because there is a link in between the provider and the volunteer. So there is a checking verification process. So if there's going to be a roting of the system, it's coming through a different part. It won't be the volunteer that's doing it. And that is no longer an issue. I mean I think that government have – our government have realised and our processing unit – now it's all manual, it goes straight through. You simply choose are you a volunteer or are you a paid worker within that role.

**DR ROBSON:** Okay.

**MS GARNER:** So that's an also indication through, for example – so in aged care – and you may have – you would have heard this probably through some of your submissions – but if you have a smaller service provider they will make sure that all their volunteers get the same screening checks. The NDIS screening check is very, very thorough. And it's important and it's required. But if somebody is doing admin work in the back office, do they need an NDIS check? Probably not. But for a little organisation it's easier just to make sure everybody has that check. So I think it's more just recognising that happens in policy and allowing for some adaptability within the system. Flexibility.

**MR SEIBERT:** Why do governments not think about volunteering in – like this seems quite a significant, sort of, issue that they didn't consider the volunteer workforce as part of developing the NDIS screening check program here in Victoria. What do you think is driving it? Is it just that they just don't think about it because they don't realise the complexity of the workforce, or is there something else? Do you get contacted in other policy areas when government is doing reforms, to understand the impact on volunteers?

**MS GARNER:** I mean I think it is an issue. I think what we have found with aged care – and Volunteering Australia may have pointed this out – is what has helped is these commissions of inquiry. So in the aged care sector they obviously went through what they went through, through Covid and then coming out of it. And now the volunteer workforce is very much included. But it takes time for government to, kind of, catch up, to realise this is a workforce that we need to take note of. As to why – I think it's just – maybe it's partly just traditional. It's that volunteers are giving their time, they'll do it anyway, whether they support it or not.

These little community organisations that are set up for a cause, they're going to do that because they believe in the cause no matter whether there's support or not. They hope to get funding and then they – but they wouldn't – it may still happen. But I think that things have changed. I think Covid changed a huge, you know, it changed the whole environment for all – a lot of sectors. And I think we're in a different time. So, you know, your – young people will have a very different concept to what – they don't call it volunteering, just as First Nations communities often know too. It's just they give time.

**MR SEIBERT:** I think that's an important point because we have seen volunteering rates in aggregate decline and for various reasons we've outlined in the report but this idea that – you know – that volunteers just like financial givers are not responsive to their environment and policy changes.

**MS GARNER:** Yes.

**MR SEIBERT:** It's pretty clear that it's not true. And if it is true then I think that would be that that would suggest there's a limited role for government in encouraging volunteering which I don't think is right. So - - -

**MS GARNER:** Yes.

**MR SEIBERT:** - - -yes, just wondering Gillian, what patterns and trends have you seen in volunteering? You mentioned young people – maybe – if you talk a bit more about that, particularly you know the heterogeneity that you see in the population and what's been going on there.

**MS GARNER:** So I think it comes back to which – and the draft report acknowledges this – is that there are these different motivations that make people give their time or do things and we do know that – I mean young people just think differently to your older cohort of volunteers. You know I think a lot of young people don't necessarily want to be doing what their parents did in terms of giving time to whether it was their church or their sports club. But if they were encouraged in a different way and a lot of them are doing it anyway maybe they want to coach or they want to learn a skill and they can do that through their sports club. If they were aware that they could do that and there was a better matching of motivations with opportunities. But that needs design and of course it needs data. We need to know what young people feel or what drives them, or what doesn't drive it. I sat in on a meeting here with VCOSS where Mission Australia have just put out a report and I think the survey is on - it was 15 to 19 year olds – and the predominant concern or challenge for them was the environment. So, you know, if there was something that is putting them into something and they – to support – that's going to be a big one in terms of the driver and they would be prepared to give their time for it.

**MR SEIBERT:** We have got a recommendation, of course, on the data on volunteering and the extent to which – you know – governments could better collect that and different ways of doing

it. But what you're saying there is that also data, you know, on the other side on motivations across different groups and updating that reasonably frequently might also be helpful.

**MS GARNER:** Yes. Yes.

**MR SEIBERT:** Yes. Thanks.

**MS GARNER:** And I mean in a program like with aged care or NDIS, clearly there is the capacity for them to ask all service providers how many volunteers they have or what their roles are. You know? That could be a fairly simple exercise of getting very rich important data which would inform how they could screen it.

**DR ROBSON:** Thank you.

**MR SEIBERT:** I'm good. No, that's been very helpful.

**DR ROBSON:** Okay. Julie, do you have any more questions?

**MS ABRAMSON:** No. That was all. That was terrific. Thank you.

**MR SEIBERT:** I might just very quickly one question just about your members and volunteering organisation's experience with accessing DGR service because under our DGR system reform proposals we did some data analysis. It shows the benefit of data on volunteering that the ACNC data to look at how our changes might benefit volunteer-run organisations and under our estimates sort of around 6,000 volunteer-run organisations potentially might benefit from our DGR system reform proposals. But do you have any comments in addition to sort of your submissions, et cetera, regarding sort of – yes, volunteer-run organisations and accessing DGR status?

**MS GARNER:** Yes. We sort of fairly deliberately stayed out of that space just because we felt there are probably a whole lot of organisations who are better able to deal with this. But certainly expanding the DGR that would be incredible, I would have thought for most. I think that falling within the definition of what a benevolent society is a big issue for a lot of organisations.

I used to work for a human rights organisation and they clearly didn't fall within that because the services were not seen as such. And that was an issue in terms of raising any funding or being able to offer – you know – getting some sort of deductible gift or recipient status to whatever donations were coming in.

So, absolutely. I think you're – the suggestions that are being made are brilliant. I think, though, it is remembering that your little ones need support and the over-regulation, the burden of the reporting. All of that needs to be brought into the discussion but certainly broadening it would be incredible.

**MR SEIBERT:** And you mentioned, sort of, that you were with a human rights organisation and it struggled to get PBI – Public Benevolent Institution status - - -

**MS GARNER:** Yes.

**MR SEIBERT:** And do you know of any other particular types of organisations? We have heard sort of that like community gardens, neighbourhood houses can also struggle with that.

**MS GARNER:** Yes. We haven't had – we haven't had many that have kind of come into with our ambit here I must say. I mean my kind of experience of it was more where I was before than here. It's not something that seems to have been – I think that's just something they grapple with. They just know they're not going to get donations or they don't have GDR and they won't ever get it.

**MR SEIBERT:** Okay. And Julie?

**MS ABRAMSON:** Thank you, Gillian. One thing I meant to ask is we were talking to Volunteers WA about the collation of data for volunteers and the inadequacies, I guess, of the Census because the Commission has thought that the Census was a good way of doing this. But I understand from the volunteering organisations that other methods of collecting data would be more useful – other types of survey tools. So it was good with the ABS that other survey tools so interested in your views.

**MS GARNER:** Yes. My view would be that having questions and the Census is incredible because you're questioning everyone. So to me in terms of the breadth of it would be amazing. The issue will be the question, I think, in how deep you get into it.

**MS ABRAMSON:** Yes.

**MS GARNER:** Because I think depending on how you ask the question there will be a lot of people who will not think they are volunteers. So people who are on parent committees or sports clubs and when they ask what the – you know – how many hours they spend on volunteering they're probably going to say, 'None.' But, clearly, that is not the case and that's just because they don't know what falls within that category of the definition. So that's the only issue. I mean I think the Census is wonderful.

I think the general social survey was - - -

**MS ABRAMSON:** Yes.

**MS GARNER:** - - -obviously it was to allow the much deeper dive and that would - - -

**MS ABRAMSON:** Yes.

**MS GARNER:** - - -be very helpful. So when it comes to volunteering and you would know this, it's because it comes back to the motivation and - - -

**MS ABRAMSON:** Yes.

**MS GARNER:** - - -the fact that people do it for different reasons and why. And sometimes if they just – you know – wandering down to their aged care centre and reading to old people that happen to be there they don't necessarily see that as being a volunteer. So - - -

**MS ABRAMSON:** Yes. I understand.

**MS GARNER:** - - -it's that how do you round it? I think that's really that.

**MS ABRAMSON:** Thank you, Alex?

**MS GARNER:** Which means we don't know these - - -

**MS ABRAMSON:** Oh, sorry.

**MS GARNER:** - - -things and the briefs of it.

**MS ABRAMSON:** Yes. That's it. That's the issue. Alex? Thank you, Gillian.

**DR ROBSON:** Yes. I sort of a last question on that. Gillian, you've used – I think your points on the Census are well taken. You know, a counter argument that's been put to us – I think it was Volunteering WA was that – you know – that's every five years and so it may not be frequent enough to pick up – you know – if the sector is struggling or if certain trends are happening.

**MS GARNER:** Yes.

**DR ROBSON:** And Government needs to respond to it. So it was put to us in one of the hearings that – you know – the monthly labour force survey that the ABS conducts could be used to look at – you know – just number of hours but then, you know, what breaks it down the sector that you're in. And, you know, there's other questions around age and gender and so on. So you could get some really granular data. I mean I think the issue with that is your monthly data is at the other extreme where – you know – governments, I'm not sure they need to know month to month what's happening in volunteering.

**MS GARNER:** No.

**DR ROBSON:** They do, I think, need to know about obviously – you know – jobs growth and unemployment for month to month the policy purposes. So what's your view on just that frequency? What do you think is the right – you know – sort of five years is the one extreme, one month. What do you think to be a reasonable approach in – and whatever survey it was. Is like annual or every two years? What do you think?

**MS GARNER:** I mean I think ideally if there was an annual survey it would be helpful. I mean I think going through – I mean the biggest pressure probably at the moment for us with volunteers is the cost of living and the fact that people don't have the time and they're taking up extra jobs and they – or they just – they can't afford to pay for the transport to get them to somewhere to volunteer. If you want to pick up those kind of trends you need the frequency. I mean clearly the organisers are never going to cope with the monthly reporting. So if you could gather the data through other government programs – if it's NDIS or aged care or whatever – and you had – and it's a part of your general reporting and I don't know how often that is, whether it's quarterly or however. But, certainly, I think if there was some way of an annual kind of data check would – should be helpful. I think the five years is too long.

When we did our state of volunteering report of 2019-20 and, of course, that was impacted by early COVID. So our data, you know, is not as relevant now four years on. And so – well, how do you get that rich data again?

**DR ROBSON:** Thank you. Any other questions? Julie, do you have questions? No? Okay, thank you very much, Gillian.

**MS GARNER:** Thank you.

**DR ROBSON:** Thanks.

**MR SEIBERT:** Thanks very much.

**DR ROBSON:** Okay. So have we got John from JBWere online? Not yet. He looks like he's on the list there. If you could let him in.

**MR J. MCLEOD:** There we go.

**DR ROBSON:** Hi John.

**MR MCLEOD:** Hi. How are you team? Well done.

**DR ROBSON:** Very good, thanks. Welcome. If you could just state your name and the organisation that you're from for the record? And then if you'd like to make an opening statement you can go ahead and then we'll get into the Q&A.

**MR MCLEOD:** Yes, thank you, Alex. Look, I'd also first like to start by acknowledging the lands I'm presenting on. The lands of the Wurundjeri people of the Kulin nation and pay respects to elders past and present. My name is John McLeod. I co-founded JBWere's Philanthropic Services arm back in 2001 and we manage a lot of the charity money about \$13 billion of it and so speak to a lot of for purpose organisations and do a lot of extra work with them.

My particular interest has been in philanthropy and the trends there and I have sat on the Philanthropy Australia Board for the last seven years and am still there at the moment. So, look, I was very excited when the Productivity Commission was tasked with this work and so thank you very much for the opportunity to speak and for all the work that you've done so far.

I think it's really important to increase philanthropy and grow the understanding, as importantly, grow the understanding and the connection between the for purpose sector and the broader community. So some of my comments will be around the fact that I think we've lost that connection.

In a way we have for purpose organisations, charities – many call them – sitting in a separate box to the rest of us. And that's not really the way life works. And I think growing that understanding and the connection will solve a lot of problems.

So, look, that's really – I guess – leads me into my first and major area of focus, and that's around the National giving campaign. We did a report back in 2018 called Support Report. That has been widely referenced and looks at the trends in philanthropy – all areas of it – around Australia. And at the end of that we had a 'wish list' of the thing we wanted to fix up or we hoped might be fixed up. And the National giving campaign sat at the top of that. And so we're sitting now, six years after that, and that's still the top of my list.

And I guess the reason is if I summarised it fairly quickly. If I look at all the different data points around philanthropy and I analyse all the different areas most of them are going up. Some of them are going up at different rates to others. But if we look at the amounts given per person, as picked up in the ATO data that's going up. If you look at the number of PAFs established annually, there's a cumulative total there. We analyse high network giving that it's published in the Australian Financial Review each year – the top 50 – and that's pretty much continuously gone up and gone up strongly.

Corporative giving we also analysed that with Jarrod Miles from STRIVE Philanthropy and, again, that reached record levels last year. Total giving dollars are going up. So I am giving you all the going-up bits and you know full well the bit that's going down. And we saw that and Gillian referenced it in volunteering, and I think you mentioned as well, Alex, that the proportion of people donating across all States, across all income levels and in volunteering is the only problem.

Now the problem with that being the only problem you might think with all the other bits going up and you've got one bit going down, we're not doing so bad. The problem is there's a lot of people in that mass market in the broad population. And – you know – if we don't try and address that, that fall in participation will overwhelm all those other bits going up. So they can't out-pace the fall in participation if that continues.

So, you know, if we don't fix that and volunteering at the same time, then I think all the rest of it starts to fall apart. And, again, everyone else on the call will know as well as me that the margins in the sector are fairly slim. There's a whole lot of reasons for that. And if we reduce the value of philanthropy, continue to see the value of volunteering for, those margins turn negative pretty quickly, and that sector falls apart. And we know how important it is. So I know I am overstressing this perhaps but I don't think you can overstress the problem in that participation thing.

So, the other issue I guess is if we do have that participation rate fall and the other areas grow we get a greater concentration in philanthropy. So fewer people giving more dollars. And in the US we've seen for the last few years that that's led to a few problems. You know? We want a bigger democratic say in who's giving and who's having a say in philanthropy. We don't want it just led by a few. And I don't think we have those problems in Australia yet. But, you know, like most good things and bad things we tend to follow the US. And so I don't want us to get to that point. So participation is important for that democracy of philanthropy as well.

So how do we fix it? I know our National giving campaign is just the catchcry but we already have a lot of individual charities making repeated pitches to the population for support. And we see that daily on the press. We see it even more so when there are natural disasters on. So we get a lot of that. But they're not focused on the bigger picture. They're not coordinated. They're all their own individual case and that does lead for them a bit of donor fatigue as well I think. But in all of those cases pretty much it doesn't talk to why it's relevant to the donor.

It's relevant to the need and the person who is being helped but we don't make that self-interest case. And, you know, as Andrew Leigh talked about in their pre-Government pitch and we've got it in our submission, if we reference back to the 'Slip, Slop, Slap' campaign, even the 'Grim Reaper' campaign, all of those were about self-interest in some way or another. And they were done well. They were done on a mass market and they had an effect. So I think that that's the missing link in the 'ask' not being out there. It's that coordinated approach. It's adding the self-interest part to it.



The other thing I noted from the draft report was, and I am putting words in your mouths but, you know, we can't prove it will work. We don't know that this is going to work. It's not been trialled in other countries, except for a bit of an attempt for Canada. You know, if that was the reason not to do it then we probably wouldn't be doing medical research. Because we don't know that's going to work until we do it. There's a whole lot of things where innovation needs to be tried and then we get what we hope will be the ultimate success from them.

So I don't think the – it's not being done everywhere else, so we're not going to try it – is not a great argument itself. Australia is a different country. It sits between the US and the Scandinavian countries in reliance on philanthropy in attitudes and all that sort of thing. So I don't hold that up as being a great excuse for it.

The other thing that I think is pretty compelling and I know that the PC has to take into account the cost of all of these things. Most private giving and we know from the data and Myles McGregor-Lowndes and I have had these chats in the past. Most private giving isn't claimed as a tax deduction. A lot of it is but the data tells us that most isn't. It's through – you know – the sausages at Bunnings, the lottery tickets, all the rest of it where you go to events and such.

And so there's not even a cost to government of increasing participation giving if we say that most of it isn't tax deductible. So it's just the campaign part, rather than it's an extra tax burden on there. So, look, I know I've rabbited on about that a lot but I'm just trying to show my passion for that area that I think is the most important part of it.

The other couple of little bits that I'll touch on are nowhere near as long as that is the next most important area is trying to capture the inter-generational wealth transfer. We all know the numbers there. We even saw that the government report on that talk about the number of debts going from 160,000 to 340,000 per year over the next 40 years and we know that people's assets, on average, are at the highest levels now they've even been. The property prices are through – you know – functional markets and so trying to action more of that for the further sector is really important and the numbers tell us that we are, of our comparative countries, the lowest in terms of the proportion of people who leave bequests to charity.

And if we look at the value of our bequests versus total philanthropy that number is lower than it is in most other countries. So both of those data points tell us we don't do as well as we could. And if we were going to change that now is the time to do it.

So, you know, the two elements I guess that I am trying to encourage are living bequests as we see in the US. That has undoubtedly been one of the elements that's pushed their participation rate in bequests higher than – well, double what we see – and the superannuation side of it has been talked about a lot. And, on both of those, I know one of the issues is, 'Well, what's (indistinct) on that?' And on the living bequests the government gets to choose what sort of tax incentive it provides. And that can be very low but then zero doesn't particularly help things. So the government has actually got the choice as to what proportion of that – those assets that are promised or put into a trust gets what value of it gets a deduction. So you can control the cost of it but the prize is very high.

On the superannuation side the bare minimum is making charities able to be beneficiaries from superannuation. I think that's important. I do understand your arguments around there shouldn't be a removal of the death tax because of what super's been given over its life time – I'm – it's only me, but I'm not quite as convinced of that because superannuation after death is different to

superannuation before death. And I still find it really ironic that if I withdraw my money from super, donate it to charity the day before I die I get you know – top marginal tax rate deduction. If it happens the day after it costs me 17 per cent or my estate 17 per cent. But just the logic of those couple of days difference just doesn't quite sit right as well.

The final area I will talk about is the private ancillary fund payout ratios. Look, I'm always happy to say we set one up as a family in 2004. So I have been running it for 16-odd years or more than that now – 20 years in fact this year. We fairly regularly go over the five per cent and certainly did during COVID as well. My greatest fear is that with only a little over 2,000 private ancillary funds in Australia that where – and where we should have 20,000 right now, looking at any wealth levels in Australia and – you know – levels of people at certain income bands that there should be a lot more. It's very early days and I would be very fearful of discouraging new PAFs being set up.

I think the knowledge on PAFs still isn't anywhere near that it should be around Australia and so there's a lot more to be set up. And I guess I also look at the US where the similar private foundation, while they played around with payout rates there for a while, they haven't changed their five per cent in almost 50 years. And so through lots of economic ups and downs, they've enjoyed great growth. The broad band of private foundations is giving away more each year than new money coming in.

So, you know, the fullness of time that that allows us to look at says five per cent's worked in a much bigger market why are we looking at a very early stage to discourage? And we saw a lot of PAFs not be set up in 2009 and 2010 and there were several reasons for that but one of the main ones was the uncertainty about the change in PPF legislation for PAFs. I'd hate to see that happen again.

And my very, very final comment is I'm very pleased being the data nerd that I am about the comments around improvements to data collection, I won't go into that in any detail but I very much applaud that. The discussion before on volunteering, I think, annually to me makes most sense as well. It matches up with the annual tax data, the annual ACNC data. So that makes a lot of sense to me. And we're also very supportive of the First Nation's Philanthropic Foundation as well, and our submission went into that in a little bit of detail as well. And, obviously, it's how it's done that's most important and that's a particular issue about the concept absolutely is supported. So I will stop talking there but happy to chat. Thank you.

**DR ROBSON:** Thanks, John. I've got a couple of quick questions and then Krystian, I think, was going to ask some and then Julie. You mentioned, you know, the extent to which we have seen a drop-off in – you know – the number of people donating, rather than average donations. So average donations have been going up but the number of people in the – at least in the tax-deductible space donating has been going down.

I wondered if – you know – the giving campaign is one idea. But I wondered if that is a reflection, particularly, with the tax-deductible patterns on the design of that deduction. So I'm sorry I'm going to go into economics here but, you know, I think what you're talking about is the extensive margin – the first dollar for participation. Whereas, you know, the other thing you can think about it is the intensive margin. You know, if someone's already donating, get them to donate a little bit more. And so what you're saying is really about the first one. And I wondered then, you know, what does that say then about the design of the current – you know – tax deduction for giving? I mean should – do you think there'd be merit in thinking about, for example, giving a larger deduction for the first dollar given? Or, you know, a certain – so, for

the first hundred dollars given or something, rather than – you know, at the moment if I am on – you know – the 19 per cent rate or whatever it is I get 19 per cent deduction, effectively, for every – you know – the first dollar, the next dollar and the next. And it's constant.

Whereas – look this is – it's speculative and we haven't thought about this in the draft report but your comments just – you know – set off that in my mind. I wondered, and I don't know it would work but I'm just interested in your reaction with that idea?

**MR MCLEOD:** So a few issues there and I'll just highlight them. I'm talking as much about the participation. So the proportion of people. Obviously we've had population growth over the time so when you look at the numbers of people that's been a little flatter but the proportion has been the falling thing. But numbers have gone down in some states as well. But I just make that comment.

The different rate part of it, when we put some comments in around COVID, and I think it was part of PA's comments perhaps, one of the suggestions was to look at the Singapore higher rate of deductions. And while that's overall and not just on the first bit, and not my – the back of my mind – although I was pushing for higher deductions and anything that could support during COVID, the back of my mind was always the free rider issue.

So those are already (indistinct) donating. Is there an advantage to giving them an extra deduction for the first hundred dollars or whatever? And I suspect without doing the numbers that that might offset the advantage in doing it, because there's a lot of people, even though it's only a third of the taxpayers, that third are probably going to keep on giving anyway. So it's less than a third now but thereabouts, whether or not there is an extra hundred dollars there.

So I think you need some pretty good analysis and don't anyone say anything that I'm trying to discourage good ideas but I would worry about that part of it I think.

**DR ROBSON:** Yes. No, I think that's right. Yes, I think you've got it exactly right. Krystian?

**MR SEIBERT:** Thanks for joining us, John and for all your work over the years, building the data on philanthropy in Australia. Just on National giving campaigns I suppose my question would be if such a campaign has the potential to be effective as – you know – necessary for the points that you observe, why doesn't the philanthropic sector fund one, in the sense that if there's a question of resources – it's a question of resources, as you know, and as the draft report shows there are – you know – very large amounts of resources within the philanthropic sector. And if it wanted to say – get charities together because there may be those kinds of collective acts and issues in terms of different actors organising and calling their funds. But if it wanted to get them the philanthropy does have – you know – two, three, four, five million dollars – whatever that is – to do that. And I suppose we mentioned in Chapter 10 in the draft report that – you know – they're not clear what the role of government here is, given that there is – there are resources within philanthropy to do this. But also it also sort of reverses the roles of government and philanthropy a little bit, in that we're being told that philanthropy funds innovation, trying and testing learning evaluation and then governments just gave up.

Whereas, here, sort of like the government would come in early, rather than say philanthropy funding type thing, trialling, testing learning, evaluating and then it might go to government and say, 'Well, we've done this and we've evaluated it, and here's, sort of, what we've found. You know, we want you to scale it up in partnership with us.' But it's, sort of, like the government need to be involved at the outset so, yeah, I wanted to put that to you.

**MR MCLEOD:** Yes.

**MR SEIBERT:** Yes.

**MR MCLEOD:** Yes. Yes. No, thanks, Krystian. I get the point and, look, I've also long thought about what Government's role should be, and they absolutely shouldn't be the one who runs the campaign because that would potentially be viewed somewhat cynically. As in the more philanthropy, the less government has to put into the sector, and then while that's not the case at all, that's the reason government can't run it. But being supportive of it, both financially and perhaps with influence that it has in, you know, a whole range of areas I think is needed, because the reason that charities and the philanthropic sector, so through Philanthropy Australia, perhaps aren't doing it already, I think is just the competition.

You know, you go to the biggest few charities who raise money in Australia, you know, World Vision, The Salvos, et cetera, right at the top and right down. They're busy trying to raise money for themselves, and while they'll never admit it, there is competition between those charities, so they're going to put all their effort into raising more money for themselves, rather than the sector and them getting a sliver of that bigger pie – picture. I'm just not sure there's the coordination between all of them. Even if you look at, you know, there's each of the different sectors has its peak body, but that peak body is tasked with raising money for that single cause rather than the broad picture. I think that's a reason to have something bigger than having individual charities or even individual cause areas doing it.

**MR SEIBERT:** That's a really interesting point, that coordination problem and, sort of, actors thinking about, sort of, you know, their own private incentives versus say the broader potential benefits. But that wouldn't apply to say, you know, some large philanthropic foundations, for example, because they're not competing with each other for donations, saying, 'Well, you know, we'll each put in a million dollars'. And, you know, and that provides an incentive for some of these charities and others to organise, and couldn't that address some of those coordination problems? As in philanthropic foundations aren't competing with each other to fundraise in the same way.

**MR MCLEOD:** Yes. Absolutely. And I'd be exceedingly disappointed if they didn't join that cause in a funding sense as well and talk about why they've done it. And obviously we've got a huge range there from the, you know, long passed away people who with foresight set things up, to those who are just starting now and those who do it in other ways, so I would hope all these stories got told, and for those who can financially, supported it. I think they're absolutely part of it, but again it comes to the coordination. Even our few very large philanthropic foundations in Australia, and you can look at our AFR list to see that, you know, Ramsey and Minderoo and others, they can't do the coordination themselves and just run it. They need – it needs to be broader coordinated.

I think the Government thing, while obviously some funding there to show their support, it's aiding with the coordination, I think, that's a big part of it. And even Philanthropy Australia, you know, their membership base is largely larger funders and non-profits and, you know, volunteering and other peak bodies and such but, you know, they're not represented of necessarily of Australia as a total in terms of all the individual donors aren't members of it. You need that broader coordinating effort, I think, in there to get it through.

**MR SEIBERT:** Just hypothetically on that, so Government is part of coordinating and we'll bring people together, but then it's up to the philanthropic sector to fund it, like, would that – I mean, I'm, sort of, just obviously testing here and pushing here in terms of its coordination. Maybe Government can be involved in it, but if it's about, yes, resources, that's, sort of, I suppose where we're asking the questions as well.

**MR MCLEOD:** Yes. Yes, look absolutely. I think the coordination is the more important part of it, but look, I have to say most funders love, you know, matching dollars and going to government and saying, 'Well, I'll give X if you give, you know, X as well', or a half X or whatever the number is. I think some financial contribution would make it a lot easier to get those philanthropic funders involved as well, just to show there's skin in the game as well as direction.

**MR SEIBERT:** Maybe you get some of the coordination problems that could be there amongst philanthropic funders as well.

**MR MCLEOD:** Yes. Yes.

**DR ROBSON:** I just want to pick up on that very quickly and then we'll go to Julie, but what you're saying is that – I think you were saying that because of the diversity of the sector there is this problem of fragmentation and competition for want of a better word. Everyone's got their own cause, but there's benefits in, sort of, coordinating on some things, and one of those things might be on a giving campaign.

**MR MCLEOD:** Absolutely. Look, you know, and as Paul Keating has said, 'Self-interest wins most races' or something like that. I'm probably butchering the phrase, but - - -

**DR ROBSON:** 'In the race of life always bet on self-interest, at least you know it's trying'. That's one of my favourite quotes.

**MR MCLEOD:** That's – yes, thank you. And that comes to the individual charities doing their asks. It's the thing that's missing in the ask of the population. The 'what's in it for me' bit. That's why that coordinating effort from, not the players who are deep in it already and really wanting their own bit to grow, but something over the top of that I think's the missing link.

**DR ROBSON:** Thanks. Julie?

**MS ABRAMSON:** Thank you. Thanks, John, and Krystian, thank you so much for the work that you've been doing. I have a question on the tax on super, and you referred to it as the 'death tax'. One of the issues of course is that, yes, it's preferentially taxed through lifetime, we've made that argument, but the other is apart from spouses and dependent children, other children who aren't dependent would pay that 17.5 per cent in the estate. It's hard to make the argument that actually the charitable cause should be preferred over other beneficiaries which, you know, the testator or testatrix has decided to leave money to.

That's part of the other issue, so I am interested in arguments that can be made, because you're right, you can gift inter vivos and you don't have that, but that's the other part of the puzzle. It's not just about, you know, the taxation for the super being preferred during lifetime. It's this other issue of equity within an estate.

**MR MCLEOD:** Yes. No. And I get all of that. I think, and I'm not a financial planner, but I think the reality of all of this is that, and I know through, you know, from our own firm there are – and I'm sure many others, there's been times where there's been a lot of rushed distributions of super on the death bed sort of thing to get it out the day before. And I suspect if you were really desiring to leave some super to charity, you would probably do the same thing. And, you know, we would encourage doing it well during your lifetime rather than that day before anyway. I'm not sure it's the biggest problem. I think it'll just lead to more financial planners going around it the other way. It just continues to strike me, the irony of something you get the tax deduction for the day before, and you don't the day after.

And I don't know the tax system in detail enough, but I wonder whether it's not just, there's no death tax for superannuation going to a charity, but do they get some sort of deduction, whatever the level was, that could offset the other bits that are going to the non-dependents. You know, whether you can play with it another way so they pay the death tax, but there's some sort of credit that comes to the super pool. It's getting complicated, I know, but - - -

**MS ABRAMSON:** No. It's an interesting – I mean, we haven't thought about it like that as I said, but that's an interesting idea. If I may Alex, we've got a little bit of time - - -

**MR MCLEOD:** Yes.

**MS ABRAMSON:** Just wanted to ask you about the living bequest, because I do think that that is a very interesting idea, and it gets around this concern that people have that their superannuation will run out, which seems to be a big motivator for people not wanting to donate inter vivos. And I think you've said in your submission that it is something that's used quite a lot in the US. I am interested in learning a little bit more about that because it seems a very interesting idea.

**MR MCLEOD:** Yes. There was, and I won't rake over the coals, but there was a submission put in, I believe, to Treasury, and I'm going to say about five years ago, maybe, maybe it's a touch more than that, that talked about one of the structures of this, but in the US there's a number of different ways of doing it. You know, once you get financial planners involved with anything you can either give a – sorry, promised to give – enter into a contract with the charity to leave your house, or 100,000 or whatever the number is. Nothing happens until you die, but the IRS has the schedule, and it depends on how old you are, what the type of asset is, the volatility of its value and all of that, and they'll say, 'Well, if you've entered into this contract, and you've said I'm going to leave 100,000' - - -

**MS ABRAMSON:** Yes - - -

**MR MCLEOD:** 'When you're 63, you get' – I don't know the number but, '\$10,000 tax deduction today', and that varies a lot. That's one of the schemes, and there are other schemes where you can quarantine that asset and, you know, you get the income until you die, and then they get the asset value. And there's a whole range of different mechanisms, but all of them have that common purpose to make some financial incentive to support that charity down the track, compared to just, as we do now, just writing it in the will.

And, you know, I think one of the things that struck me is if we put the proportion of people who donate here, and overall it's, you know, 27 per cent or something, as you get older the numbers tend to go up, but the proportion then that give out of their will is only six and a half to seven per cent.

**MS ABRAMSON:** Yes.

**MR MCLEOD:** And so that's always amazed me and said, well, if people are doing that through their lifetime at much higher rates, why is it so low in bequest? And it's partly we haven't thought about it, come back to the national giving campaign, and part of it is there's no incentive and it's a long way off, and I just do my giving when I think about it each year.

**MS ABRAMSON:** Yes.

**MR MCLEOD:** I think anything that raises the focus around what we can do with bequests. We're writing – I'm right in the middle of writing a big report around the intergeneration wealth transfer and bequests, and it's that, you know, how silly it is to die with the most asset values that you've ever had in your life, rather than either enjoying it, supporting the kids, or supporting charities all the way through. The same bit goes for the bequest side.

**MS ABRAMSON:** Thanks, John. Thank you.

**DR ROBSON:** Thanks. Krystian, did you have any other questions?

**MR SEIBERT:** Yes. John, just wanted to ask what your views are on our draft proposals regarding some more granular reporting of information about sub-funds?

**MR MCLEOD:** Yes. Look, sub-funds would be great. I guess – and the US, you'll know this as well as I, or probably better than I, Krystian, but the US has obviously got this little bit of an issue around donor advised funds, and the privacy thing there and the payouts. And, you know, while we haven't got the payout issues that they've got over there, we do have the same privacy, and we do allow privacy for private ancillary funds as well. I think the privacy thing would be a question of whether you're identifying each of the funds in name. I think that's an issue.

Some of the providers do mention the names of all of their sub-funds. They don't break up individual values. But getting better reporting about the number of sub-funds – you know, some of the reports we get on donor advised funds out of the US really highlight how large that sector is, and how well it's growing including community foundations. We don't really have the data here. We do on a one-by-one basis, and I know you've compiled some reports for Swinburn on that, but if we could ask a few more questions around those to be able to get that data, show the trends.

And it's really showing – you know, the main reason to do it is to show other people what's possible. You know, why haven't more people thought of using a sub-fund, same as a PAF. I would very much be encouraging more data, at least on an aggregate level for sub-funds, and really just to highlight the average values of them, know that on a, you know, a total basis would be very helpful.

**MR SEIBERT:** Yes. Our draft proposal would be, sort of, a, you know, aggregate basis, sort of, you know, the number, the asset, you know, the mean, median distribution from sub-funds within a public ancillary fund, that sort of thing.

**MR MCLEOD:** Yes. Yes. No, I think that would be great. Really showing how they work. The other thing, and just since you asked, data – the AC – one of the slight frustrations is the ACNC obviously publish their data cube roughly the same time as the ATO publish their tax

stats, but there's also a live level of information that's there. I can go onto the ACNC website now, and look up individual charities and today get 2023 reports, but I can't get an aggregate of that. And in New Zealand I can. I think it would be good to make a live data cube with all of the most recent AISs on there, rather than wait for that couple of years for the data cube that's currently there. I know there's probably a little bit of data cleansing issue there but, you know, if the caveats are there and all that sort of thing about what that data is, I think that would be very helpful.

**MS ABRAMSON:** Thank you. Thanks so much, John.

**MR MCLEOD:** That's okay.

**MR SEIBERT:** Yes. We appreciate it.

**MR MCLEOD:** A pleasure. Thank you.

**DR ROBSON:** Okay. The next participants, I think, are Jacqueline Phillips and Peter from ACOSS.

**MS J. PHILLIPS:** Hi there.

**MR SEIBERT:** Hi, Jacqueline. Hi, Peter. I think Alex might have briefly – we might have lost him. I don't know, Julie, if you want to just, sort of, step in. You're on mute.

**MS ABRAMSON:** Thanks very much for joining us. I'm sure Alex won't be far away.

**MS PHILLIPS:** That's fine.

**MS ABRAMSON:** I would like to – first of all, thank you for the work that you've previously given us. I'll invite you to have a brief opening statement, and then we'd be very happy if we could ask you some questions, thank you.

**MS PHILLIPS:** Thanks very much. Thanks for the opportunity to appear this morning, and just acknowledging that we're joining from Indigenous land, wherever we're dialling in from, that has not been ceded. Maybe just to start from first principles which we outlined in our original submission which we'll generally take as read, but in approaching the question of the role of philanthropy and the extent to which Government should seek to incentivise giving, our general principle or starting principle is that governments have a unique responsibility to generate the revenue that's needed via the tax system to fund services adequately.

And that responsibility should not be outsourced to philanthropic donors, nor should community organisations be forced to seek additional funding from philanthropic donors to meet what we would consider to be the essential costs of delivering services to the community, what others might have been describing as the, sort of, pay what it takes idea if you like. We also believe government funding for services should be adequate to meet both the real costs of delivering services, but also commensurate with the need in the community.

And ideally, government funding would be flexible enough to support some innovation and some pilot programs to be able to resource work that is not just direct service delivery, but policy, research, and ideally advocacy, and certainly not constrain it. And that government funding should be available and efficiently administered in response to emergencies. As I said,



we take as read the original submission, and really all we wanted to do today was highlight our response to some of the findings and conclusions that the Commission have outlined in your draft report.

And on the whole, and you know in broad terms, just to say that we think you've struck a really good balance in the way that you've approached the issues, and the methodical way in which you've thought through and sort to weigh up the competing considerations and priorities at play in this complex area. The three things - - -

**MS ABRAMSON:** (Indistinct) - - -

**MS PHILLIPS:** Yes.

**MS ABRAMSON:** Can I just stop you there? I'm sorry. I should have asked you. It's my fault. If you could just announce your name - - -

**MS PHILLIPS:** Yes - - -

**MS ABRAMSON:** And what you do for the purposes of the transcript. And, Peter, if you speak as well. I'm sorry, Jacqueline. I should have asked you before.

**MS PHILLIPS:** No, that's fine. It's Jacqueline Phillips and I'm the deputy CEO and director of policy and advocacy at ACOSS.

**MS ABRAMSON:** And, Peter, you're on mute.

**MR P. DAVIDSON:** Okay. Can you hear me?

**MS ABRAMSON:** Yes.

**MS PHILLIPS:** Yes.

**MR DAVIDSON:** Dr Peter Davidson, and I'm principle advisor at ACOSS, and I deal among other things with tax policy for most things.

**MS ABRAMSON:** Thank you, Peter.

**MS PHILLIPS:** All, clearly, DGR questions are to be directed towards Peter.

**MS ABRAMSON:** That's fine. Jacqueline, you were about to, I think, outline three issues that you wanted to talk to us about.

**MS PHILLIPS:** That's right. Am I – I'm not muted am I? No, good.

**MS ABRAMSON:** No. We can hear you, and also Alex can hear us, but he's kind of in the cyberspace so he can't talk but he can hear us.

**MS PHILLIPS:** Okay. Well, good to know.

**MS ABRAMSON:** A cunning plan actually.

**MS PHILLIPS:** Good to know he's here in some form. The three things I quickly wanted to touch on from the draft report, the first is to welcome the Commission's proposed approach to reform to DGR status, including the proposed extension of that status to organisations undertaking advocacy organisations and making that status very clear and unequivocal. Many of those organisations had previously been considered ineligible, or were uncertain about their eligibility following legal decisions and their implications that that in itself has – that uncertainty's been a barrier to them accessing or seeking DGR status.

And so again I think in that area, the Commission's proposed approach strikes an appropriate balance, and is broadly in line with what we had recommended in our submission. The – and including the use of specific listings only in exceptional circumstances. I mean, I think that's a really sensible way forward. And the other issue was just to indicate our broad support for the Commission's finding that there isn't a case for reducing superannuation taxes for bequests, and we made that argument in our submission as well. The purpose of the super system, as the Commissioner's report outlines, is to fund retirement, and the tax arrangements should be squarely focused on that objective.

That was all I wanted to say by way of brief opening comments and, yes, happy to have a discussion, take questions.

**MS ABRAMSON:** Thank you. Well, our learned presiding Commissioner is back now.

**MS PHILLIPS:** Excellent.

**DR ROBSON:** Thanks. I don't know what happened there, but anyway, that's modern technology. I might just ask you, Jacqueline, about the DGR reforms. We have had a lot of comments on a couple of the areas, and I'll get to those, but I wonder if you – we are asking people around the general principles that we came up with. Yes, we did find the current DGR system, you know, has evolved over many, many decades, and is now not fit-for-purpose. It evolves in ways that are unpredictable, and so we came up with some principles and then applied those principles. I wonder if you could just comment on, you know, whether you think those principles are right, and then we might talk briefly about the application of them.

**MS PHILLIPS:** Yes.

**DR ROBSON:** (Indistinct), yes.

**MS PHILLIPS:** Yes. This is the three principles, I think, is that right?

**DR ROBSON:** Yes.

**MS PHILLIPS:** That's the principles you (indistinct) in the draft paper, and I'm just trying to – there they are on page 17.

**DR ROBSON:** Yes.

**MS PHILLIPS:** And, Peter, feel free to also join in here. We were just discussing these earlier. The first thing that the activities are expected to generate net community-wide benefits and would otherwise be undersupplied. I mean, I think that's reasonable. The conversation we were having earlier, I suppose, goes to the relationship between the PBI and the DGR categories, and which tax benefits should be extended exclusively, I guess, to those organisations who are

delivering services to populations who are disadvantaged. And that might be, you know, in a number of different ways which the PBI category – which I understand you were also proposing to modernise, I think, but I didn't get to refresh myself on that position.

Gosh, something's happening with my Zoom. Am I still there?

**DR ROBSON:** Yes, you are.

**MS PHILLIPS:** Still there. Okay. Good.

**MR DAVIDSON:** It's all good.

**MS PHILLIPS:** Look, I think the first principle is reasonable noting that relationship with the PBI. I liked the way that you articulated the net benefits question, including that consideration of the alternative uses of taxpayer funding. That was one of the key issues that we flagged in our submission. And we were just discussing the third principle as well around the risk – the relationship, I guess, between donations and fees where on the surfaces impose user charges, and I suppose the reality that that principle probably is necessary in the way that the system is currently working, where these services that might previously have been directly funded in whole by Government though block grants, for example, are now operating on a fee-for-service basis in much more marketised model.

I suppose, although this ideally wouldn't be the system that we would design if we were setting up – you know, redesigning a universal childcare system, it is where we are. And so I think that probably is a necessary limit for the reasons of integrity et cetera that you've outlined, and so we also indicated that in our submission. I think the principles are sound. I don't know, Peter, if you wanted to add anything on the principles question before we get to the application.

**MR DAVIDSON:** Well, just that I think we need to be careful about excluding fee charging organisations from gift deductibility, because if that applied universally, a very large proportion of community agencies including small charities would be excluded. Because regrettably, community organisations are in a place where they need to rely increasingly on fees from consumers, including consumers with very low incomes. It's regrettable in our view, and so you just need to think carefully about the extent to which those categories align with the sectors that have been more fully marketised so to speak, which may change all the time.

It's not about categories. It's about the extent to which services in a sector are relying heavily, you know, substantially on user charges in some kind of pseudo market structure, and that will change over time. It will – it's been shifting in the market direction. In some places like employment services it might shift in the other direction.

**DR ROBSON:** I think that's a very good point, and I think we do make the point in the report that, yes, the fact that an entity might charge user fees, you know, should not be the be all and end all. You know, there's considerations of equity to be taken into account, but then also whether, you know, the extent to which their activities and any donations might benefit those who are, in effect, outside the organisation. You know, you could have a fee charging entity, it gets donations and it provides, you know, services in exchange for that fee, but then it also does other things in the community. It might go and do outreach or with other things. And then also I think your comments on the PBI are also interesting.

I mean, I think in the – the spirit of – part of the spirit of the DGR changes is that, you know, PBI and, you know, given all the complications around the definition and so on, and squeezing yourself into that definition, you know, I think our view would be, well you may not need to do that as much as you would otherwise would under our changes. It would be easier to get DGR, you know, and not be a PBI, I guess, is part of what we're thinking. And so those are very good and interesting comments. We could talk about application a little bit. Maybe, yes, your views on the draft recommendation on school building funds, and also entities which have the sole purpose of advancing religion.

You know, in the second case, they currently don't have DGR and we don't proposed extending DGR to those entities, and in the first case school building funds (indistinct), yes, interested in - - -

**MS PHILLIPS:** I think we're comfortable with both of those. I mean, certainly, we haven't consulted with our membership in regard to the school building fund, but we express that position – the same position as you're outlining in relation to religious education. And so I don't think – you know, I think that would align with our position, and I can't imagine we would have a different view on the school building funds. I think broadly comfortable with those two groups having DGR status withdrawn. I'm very pleased, as I said earlier, to see the advocacy activities being recognised where, you know, tied to a charitable purpose.

And understand the reasons for excluding, you know, those particular sectors, aged care and child care, given as we discussed earlier they have largely shifted to a more market-based model and the fee for service.

**DR ROBSON:** And they would still get it to the extent that they're PBIs (indistinct) - - -

**MS PHILLIPS:** Yes, exactly (indistinct).

**DR ROBSON:** Krystian, did you want to ask some questions?

**MR SEIBERT:** Yes. No, just to clarify, that I think with the charities with the sole purpose of advancing religion, they currently don't get DGR status - - -

**MS PHILLIPS:** Yes - - -

**MR SEIBERT:** And the status quo would be maintained for them.

**MS PHILLIPS:** That's right. That's right.

**MR SEIBERT:** Yes. Aged care, early childhood and childcare providers that are PBIs, they would retain it as well.

**MS PHILLIPS:** Yes.

**MR SEIBERT:** There wouldn't be any change there. It's just the ones that don't currently have it or wouldn't get it either but, yes, I think just on PBIs, the draft proposal is to, sort of, yes, have a statutory definition of that given that there's very different views about how that concept should be defined. And the regulators and the courts are being required to make policy decisions, in effect, around the scope of it. I think we are – we're saying that, sort of, where it's

at at the moment, there is a court case appeal happening about, sort of, that definition, but generally sort of focussed on charities, focussed on disadvantage, addressing poverty - - -

**MS PHILLIPS:** Yes.

**MR SEIBERT:** - - - is a good place for that sort of institution – PBI institution to focus. There have been some calls to expand it to other types, of course, but we think that it’s appropriately targeted there. I think, as Alex said, given the expansion of DGR status to a range of different other charitable purposes, some of the pressure on becoming a PBI will not be there - - -

**MS PHILLIPS:** Yes.

**MR SEIBERT:** - - - but some charities will still want it because of the FBT concession, but we propose to keep it sort of still relatively confined to where it is more or less now. Yes, and just on fees, I think on page 184 of the draft report, we sort of clarify that it’s not that sort of if you have, say, an aged care or a childcare provider that charges fees that therefore it’s within the scope of that principle; it’s more where you’ve got, say, the donors and the feepayers are one in the same.

**MS PHILLIPS:** The same group, yes.

**MR SEIBERT:** And you then have a potential to kind of have a donation and the fees go down.

**MS PHILLIPS:** Yes.

**MR SEIBERT:** But where, you know, you have a charity that might, say, deliver aged care or childcare or something like that, you know, people might leave a request, they might make donations, but it’s not, you know, ‘Pay your fees and we recommend a donation, you know, once a month as well,’ sort of thing.

**MS PHILLIPS:** Yes. Okay.

**MR SEIBERT:** I just wanted to get your thoughts as well in relation to the DGR system but also tax concessions for philanthropy more broadly, about some of the things that you mentioned in your initial submission around sort of trade-offs regarding tax concessions, tax expenditures, expanding them, et cetera, and the broader sort of link with government and the role of government.

**MS PHILLIPS:** Yes. Peter, did you want to respond to that in the first instance?

**MR DAVIDSON:** Well, the general point would be that every dollar spent, so to speak, on a tax expenditure is a dollar that’s not available for direct expenses. And so the principle here is that the Government and the Parliament are choosing to direct resources to certain benefits, services and so on. There’s a trade-off between that, the capacity to do that, and the desirability of encouraging donations, philanthropy, where needs won’t necessarily be met by a Government program for some time into the future. So there is a – there is a trade-off there.

And of course, people donate to things they care about, and one point I’d make is that – here is that wealthier people tend to care about different things to people on lower, modest incomes, and we wouldn’t like to see the balance of, you know, public expenditures and tax expenditures shifted too far towards the priorities of a particular group in society as distinct from the

community as a whole as mediated through the Parliament. So that's the general – that's the general principle.

We think Government services, publicly funded services are the foundation for a welfare state, if you like. Philanthropy can't replace that. Philanthropy has a role at the margins, and it's an important role, but it's important not to waste a single dollar in tax expenditures.

**MR SEIBERT:** Thank you. And do you think that also means that it's important to really scrutinise sort of proposals and concessions in terms of their potential costs and benefits in that broader context?

**MR DAVIDSON:** Absolutely.

**MR SEIBERT:** And just wanted to sort of just change tacts slightly to ask for your views around advocacy. You've mentioned sort of about how the DGR system reform proposals would sort of expand eligibility for those types of charities, noting that there are sort of certain limitations and constraints around sort of advocacy in terms of 'has to further a charitable purpose' and 'can't have a disqualifying purpose of supporting parties and candidates' and that sort of thing, but would you be able to sort of, yes, just elaborate your point of views about advocacy by charities, its role, why you think it's important that it should be supported through the DGR system and more broadly?

**MS PHILLIPS:** Yes. I mean, I think what we think of is the particular expertise that the community sector in particular has, working very closely on the ground with often very marginalised and disadvantaged communities whose voices and perspectives are often marginalised in public debate. And we have a lot of well-resourced, highly organised and effective lobbyists who represent other interest groups who hold a lot of power already – for example, business groups and farming groups and others – and the most disadvantaged members of the community, they don't organise in the same way for obvious reasons, and so the sector plays an important role in identifying some of the particular issues affecting those groups and advocating to government both about problems but also about solutions.

Having said that, also acknowledging – and it's been a big shift in the sector, I think, over the last decade or so – the importance of hearing from those people directly affected, the people which you might describe as 'service users', people in communities who are disadvantaged themselves, not just mediated by their contact with service providers. But there's a role for both of those voices. I think it's really important that Government hears both. It's really important from a democratic and equity perspective in part to balance the otherwise often dominant voices of other much more powerful and well-resourced interest groups.

And it's a necessary kind of – and I think it's a useful adjunct to service delivery work for organisations to be resourced to translate what they observe and identify in terms of patterns, problems and solutions from service delivery into policy research and practice.

And I think one of the – I mean, I guess there's two parts of this – to this – but one of the things that we observe all the time is organisations effectively self-censoring because of a fear that, to advocate too loudly or too critically on an issue, even when it's very directly affecting the people that they serve, would compromise their government funding. Less so philanthropic funding, but certainly it's perceived as a threat to the security of government funding if they're criticising government.

And so, I mean, as a first principle, we think it's very important – and we say this to government – that governments fund policy and advocacy work and value the expertise and experience of the sector and also the people directly affected, but certainly that it should also have a recognised place within the DGR regime as an activity that contributes to, you know, community wellbeing, overall better policy and more equitable and inclusive policy.

Was there anything you want to add to that, Peter?

**MR DAVIDSON:** Just that one of the important differences that philanthropy and donations can make at the margins is precisely an influence in Government policy to shift its gaze to people, problems and issues that hitherto been neglected. And that's an important role that we think organisations such as ours play. And to the extent that it impacts government policy, it can have far more impact than, you know, additional money for soup kitchens and the like, important as that – important as that is, because of the power of government to alleviate poverty, which is far in excess of the power of an army of volunteers to do so.

A second thing I'd say here is that there's a caveat, of course, which is that charities shouldn't engage in political partisan advocacy.

**MS PHILLIPS:** Yes.

**MR DAVIDSON:** And that's a balance that needs to be struck where, for example, a charity is advocating for causes that are favoured more by one party than another that's still consistent with their charitable purpose, but if – but if they diverge from the charitable purpose and become, you know, advocates for a political party, then they're no longer a charity. And that's a long-established principle, but at the – administering it on the ground is complicated, and it sometimes leads to silly rules such as, 'Charities shouldn't participate in political protests,' and the like, which I don't think is a principled approach to those issues.

**MR SEIBERT:** Thanks. That's very helpful. Julie?

**MS ABRAMSON:** Yes, I had a couple of questions, and one I'll get you to take on notice. Superannuation, we asked for some comments around whether the process of superannuation being able to be nominated to a charity like a binding nomination, we've asked for some comments on that. I'm particularly interested in one aspect of it that I think that you will be able to assist us with, and that's about vulnerable stakeholders. So we're not necessarily talking about well-known charities who we know would not be in that position, but some of these people could be quite vulnerable. So we're interested in around safeguards.

See, for example, as you know, with an estate, testator capacity is super important for them – I didn't mean to have a pun there – but that's really important, and there are mechanisms in the law which support that, 'Did the person have the testamentary capacity?' So I'm interested in any protections you think – or even about the policy principle itself.

**MS PHILLIPS:** I'm going to give that one to you, Peter.

**MR DAVIDSON:** The policy principle is a good one, and, you know, smoothing that process is desirable. It's not an issue we've examined in any – in any depth, but I can see the danger that you raised. That's all I can say, really. The issue that we have examined closely and is in our submission is that we don't believe that there's a case for exempting - - -

**MS ABRAMSON:** From the tax.

**MR DAVIDSON:** - - - donations through to us from estates, from that 17 per cent departure tax, so to speak, that - - -

**MS ABRAMSON:** I like calling it ‘departure tax’. It’s better than a ‘death tax’, isn’t it. Thanks for that, Peter.

**MR DAVIDSON:** And it’s not – and it’s not a - - -

**MR SEIBERT:** (Indistinct.)

**MR DAVIDSON:** It’s not an inheritance tax; it’s about – it’s about superannuation being utilised for its purpose for which government is expending \$50 billion a year in tax expenditures, and that is, you know, for people to have a decent retirement. And regrettably, around 90 per cent of people are retiring with – dying with money still in their account because of, you know, because we tend not to rely on annuities in Australia because people are conservative about preserving their capital, and because, unfortunately, it’s become an estate management and wealth creation vehicle rather than a retirement policy vehicle. And so that’s our – that’s our concern there.

**MS ABRAMSON:** Thank you, Peter. Just one final thing if you could take on notice for us. The government has a proposal that cheques will be withdrawn in four years. We’ve heard a lot of evidence from charities that a lot of older Australians do provide donations to charities via cheques. So, you know, it’s that whole issue of we don’t have bank branches available to elderly people; they’re concerned about using the internet because of scams and things like that. So any light that you could shed on that, in particular demographics that use cheques, and we are thinking quite hard about that because it does seem to be a significant portion of donors to some established charities. Thanks. Thanks, Alex.

**DR ROBSON:** Thanks. I’ll just come back, I think, Peter. We’ve only got a couple of minutes scheduled, but you mentioned, you know, the role of Government – and I guess this is sort of coming back to the philosophical question and the welfare state and so on – but in that context and given you made the, you know, the very legitimate point around, you know, that every tax concession has a – you know, foregone revenue and it has an implicit cost, I mean, what’s your view on the – on the goal of doubling giving in that context?

So the government’s got this goal of doubling giving by 2030. You know, that would potentially come – you know, if it was all tax-deductible giving, that would come at a cost to revenue. Does ACOSS have a view on that – on that overall ball – overall goal given your previous comments?

**MS PHILLIPS:** Do you have - - -

**MR DAVIDSON:** What do you think, Jacqui?

**MS PHILLIPS:** As far as I’m aware, it’s not a position that we have actively supported. So it’s not a push coming from ACOSS. I think, for all the reasons that we’ve outlined, in terms of the difficult choices that need to be made around limited Government funding available and the desire to ensure that that limited funding goes to where it’s most needed, and obviously be aware of some of the gaps that we are particularly impatient to address, including the level of the JobSeeker Payment, et cetera, so, yes, so I think it’s fair to say it’s not – it’s not a campaign that



ACOSS is actively supporting, but we – and we – and in general terms, I think we feel that where the PC have landed in the draft report strikes an appropriate balance.

**DR ROBSON:** Okay. Thank you.

**MS PHILLIPS:** Just to add to that, I think it's always worth – it's always asking the question, 'To what end?' You know, often, targets are set in public policy, often arbitrary ones, but, yes, what's the – what's the purpose? Is there a particular form of philanthropy or a particular need that is not being met? Is there a concern that the scope for philanthropists and others to support innovation in the delivery of services and in public policy is not being realised? Are there – are there gaps in what Government is doing? Yes, it just – it just needs to be teased out, I think.

**DR ROBSON:** Yes, I think you picked up on two of – two of the, you know, the 'To what end?' – or the answer to the question, 'To what end?' I think the other one is obviously social capital. So there's this concern that, you know, in civil society and social capital is sort of eroding and that philanthropy and volunteering – not necessarily the, you know, the handing over of a cheque, but the things that come with that – might provide, you know, the glue that holds society together. So I think that's the other – you know, the third strand of what you were talking about.

**MS PHILLIPS:** Yes. I mean, I - - -

**MR DAVIDSON:** And that's about a lot more than - - -

**MS PHILLIPS:** Yes.

**MR DAVIDSON:** That's about a lot more than philanthropic donations. That's about the strength of community.

**DR ROBSON:** Yes.

**MR DAVIDSON:** Yes.

**MS ABRAMSON:** Can I just ask one final question? And thanks, you've been really generous with your time. Distribution rates for ancillary funds, did you have any views about that?

**MS PHILLIPS:** Peter?

**MR DAVIDSON:** No.

**MS ABRAMSON:** Well, that was short and sharp. Thank you.

**MR DAVIDSON:** Sorry.

**MS ABRAMSON:** No, that's all good. It's all good. No, thank you.

**MR SEIBERT:** If we've got one minute, I might ask a very quick question – I know we're running on – short on time – just about whether ACOSS has got any views about volunteering and how that is considered as part of – or not – as part of sort of the workforce when looking at policy changes? Because we have heard in other consultations that the Government might introduce, say, a particular background check requirement or they're reforming a particular area,

and they think about the paid workforce, but they don't think about volunteering input. So I suppose it's not about sort of – well, it could be about whether there's, you know, substitution between one or the other, but just about governments thinking about volunteering given it is active in a range of different areas, that if ACOSS had any views on that?

**MS PHILLIPS:** Look, I don't – I don't think particularly detailed ones. The role of volunteers is not an area that we've done a lot of work. I know some of our other member organisations have. Obviously, Volunteering Australia are a member. Our workforce work has been mainly focussed on the paid workforce and the implications of underpayment and the need for adequate Government funding to ensure that employers are able to fund adequately and meet required pay rises, et cetera.

So I don't know that we've got a whole lot to say about that except that when – our evidence today, we haven't really been – we haven't been including volunteering in our conceptualisation of philanthropy in the comments that we've made today. I think we would, as Peter said, see that as quite a – I understand that it can fit under that umbrella, but I think, conceptually for us, given the broader role that volunteering plays in terms of community and participation, we would consider that to be a different – raise a separate set of issues.

But I also go back to the original principle that we remain of the view that governments should be paying the full and real costs of delivering a service so that – organisations should not have to rely on volunteers to deliver the core and essential community services. So I think that's the first – that's the principle. And of course, there's a role for volunteers in the community and society, but services shouldn't have to rely on people contributing time for no payment to deliver things that the community needs.

**MR SEIBERT:** Thank you.

**DR ROBSON:** Thank you. Okay. Thanks very much. So we will take a 10-minute break now. We will come back at 11. Everyone on the line, I think, if you could stay in the Zoom call and turn off your cameras and mute yourselves, and we will come back in 10 minutes with the Sports Foundation. Thank you very much.

**MS PHILLIPS:** Thanks very much. Thank you.

**MR DAVIDSON:** Thank you.

**SHORT ADJOURNMENT**

**[10.50 AM]**

**RESUMED**

**[11.00 AM]**

**DR ROBSON:** So I think we'll – it's 11 o'clock, so we'll get started. So I think we've got Patrick from the Australian Sports Foundation. Patrick, are you online? Would you like to join us? Here he comes.

**MR P WALKER:** Yes, I'm here.

**DR ROBSON:** Hello.

**MR WALKER:** Sorry, just with the mute and the (indistinct). My apologies.

**DR ROBSON:** Welcome. If you could just state your name and the organisation that you're from for the record, and then if you'd like to make an opening statement, we'd be happy to hear that, and then we can get into some questions.

**MR WALKER:** Great. Thank you. Yes. My name is Patrick Walker. I'm the CEO of the Australian Sports Foundation which I will refer to as the ASF from here on in. I'd like to acknowledge I'm joining this meeting from Ngunnawal country and pay my respects to Elders past, present and emerging. Thank you for giving me the opportunity.

I'm going to keep my opening comments pretty brief, and I just want to cover three things before throwing it open to questions. First, I think it's worth just explaining a little bit about the ASF and how it operates because it is relevant to the submission we've made to the Commission. Secondly, I want to summarise the proposal we're advocating for as simply as possible. It's got some quite complex nuances, but I want to try and keep it as simple as possible, and then really explain why we think this change is important for the amateur sports sector and it's important that it's made now. So those are the three things I want to run through.

In terms of that ASF, we are a federal government agency. Our role is to raise philanthropic money for sport. We're a deductible gift recipient listed by name in the Income Taxes Act, and the way we work is that a donor can make a tax-deductible donation to the ASF and nominate a preferred beneficiary to receive those funds from us, and that beneficiary could be any sports club, community, amateur at any level, sporting organisation or even an individual athlete. So through the ASF, sport is already able to give a tax deduction for donations to any entity or athlete in Australian sport provided that donation comes from a private or corporate donor.

It might seem like a clunky model. In fact, that's a very efficient model. It's the same model that's used by Schools Plus in the education sector, the same model that's used by the Australian Business Arts Foundation (AF) in the arts and cultural sector, and its advantage is that it saves, in this case, thousands of community volunteer-run sports clubs from managing and becoming a DGR, even if the law allowed them to do so, which it doesn't. And secondly, it provides a single point of contact for compliance with the ATO. We work very closely with the ATO to manage compliance among the sporting sector in terms of complying with tax deduction and so on.

And I can't resist referring to one submission that was made to the Commission. Contrary to what was referred to in that submission, it's manifestly successful. So we've increased donations to sport in the last few years from around 40 million to close to 90 million, and that really demonstrates that this is a highly efficient model and a very effective model.

So the important point to note, and the reason for all that preamble, is we are not advocating for any change to DGR system insofar as it relates to sport. We think it would be inappropriate and ineffective in the sporting sector. What we are advocating is for the inclusion of the advancement of amateur sport as a charitable purpose.

And the reason for that is, you know, part of the Commission's inquiry is about removing barriers and impediments to philanthropic giving, and we have a significant barrier or impediment to philanthropic giving to amateur sport, and that's really been caused by the rise of private and public ancillary funds as vehicles for philanthropic giving; and they've been touched on during the conversation this morning. Private and public ancillary funds, you know, there's

2-3,000. The previous speaker thought that should be 20,000, and they're certainly going to play a huge part in the projected growth of doubling philanthropic giving by 2030.

To simply a complex legal point, in summary, most private and public ancillary funds can only distribute to an institution that is both a DGR and is charitable. And in practical terms that means that ancillary funds cannot give to the ASF for distribution to amateur sporting clubs, to grow sports participation, for example, because amateur sport is not recognised as a charitable purpose. So we have this vast and growing amount of philanthropic wealth, this vast and growing amount of philanthropic giving, and it is effectively precluded from supporting amateur and community sport.

So the change we're advocating for is to put the advancement of amateur sport into the Charities Act to facilitate and unlock and enable private and public ancillary funds to support amateur and community sport in partnership with the ASF.

I'll come onto the impact of that change, but I think it's worth just sort of talking about why that – we think that change needs to be made. This is a sector that is in dire need of additional support. We have conducted surveys in recent years and around 20 per cent of community sports clubs are considering closing their doors. They were devastated by the financial shocks of COVID. They're not suffering from cost-of-living crisis. Their own costs are going up and the costs of participating in sport are increasing for their members. So 52 per cent of clubs say participation is declining because of the cost of participation really being a barrier to members.

So we have to find a way to support these clubs. They play a vital role in community health; improved physical health, improved mental health, builds social cohesion, contributors to social capital, teach life skills to our kids, and we think the fact that amateur sport isn't recognised as a charitable purpose currently undervalues the contribution these units contribute to society.

And in passing, I just would like to refer to one stat, which is a survey by The Lancet two years ago which surveyed physical activity levels of children and teenagers in 146 countries, and Australia was ranked 140<sup>th</sup> out of 146 for levels of physical activity among their teenagers. Sport isn't the only answer, but it's an important part of the answer. We have to get people out participating in physical activity, and community sport is a great way to do that.

Thirdly, you'll be aware that the nation is investing significantly in the Brisbane 2032 Olympic and Paralympic games. That is not really what I'm here to talk about today. What I would observe is that we've recently seen the FIFA Women's World Cup and the Matildas' effect and the effect that had on the nation, bringing the nation together, but also getting boys and girls out participating in football, in this case; in soccer. And in many places, there's a 300 per cent increase in applications to be registrants and participants in kids' football.

The problem will be those clubs maybe can't – don't have the resources or facilities to support that. And coming back to our survey, if 20 per cent of those clubs go out of business between now and 2032, if the Olympic and Paralympic Games achieve anything like the same kind of impact, we will not be able to meet the demands. So we have to sustain the viability and the existence of these community sporting clubs.

The change we're proposing is revenue-neutral, in that, as you'll all be aware, donations made into ancillary funds are already tax deductible, so it's not creating an additional tax deduction; it's simply allowing those funds to be used for an additional purpose, being the advancement of amateur sport.

We've conducted modelling through an independent economist, and it's projected that this change will result in \$103 million a year being distributed from ancillary funds to amateur sport by 2030. And over the period of the forward estimates to '27-'28, that will create 190,000 additional participants and generate a \$370 million reduction in health costs at a federal level. So this is a very – it has a great cost benefit. It's a relatively simple measure in concept and it has a great cost benefit.

We're obviously aware of the initial comments in the draft report of the Productivity Commission which (indistinct) came out against supporting this change, and obviously we would like you to reconsider that, which is why we've put in a further submission. We do think this is a once-in-a-generation opportunity to provide this additional support to sport and it's a once-in-a-generation opportunity to overturn, you know, hundreds of years of established case law which dismiss sport as a mere plaything of the rich and famous. That is not the role that sport plays in modern society; it's not the role that sport needs to play in the modern Australia.

So we think it would be a significant missed opportunity if the Commission advocates or decides against making this change. It's a change that has the support of the sector. We have done and are embarking on further consultation among community sports clubs, and early results are extremely supportive and positive, and we will continue to roll that consultation out in the coming months before reporting back to Government.

So that's all I'd like to say by way of opening comments. Happy to take any questions or to elaborate on anything that you need.

**DR ROBSON:** Thanks, Patrick. Krystian, did you want to start?

**MR SEIBERT:** Thanks, Patrick, and thanks for joining us today and for your submissions as well. So just to recap or clarify, you're not seeking to have all amateur sport eligible for DGR status, so as in each sort of, you know, individual organisation, potentially, being able to have it. You're seeking that amateur sport is a charitable community – amateur sport is a charitable purpose - - -

**MR WALKER:** Correct.

**MR SEIBERT:** - - - which then would facilitate ancillary funds that have to give to eligible item 1 DGRs with a charitable purpose - - -

**MR WALKER:** Correct.

**MR SEIBERT:** - - - so they could then give to the Australian Sports Foundation, which is a specifically listed item on DGR. And the barrier at the moment is that, because you have – you're a – amateur sport is not a charitable purpose, they can't make grants to you?

**MR WALKER:** Nailed in one, Krystian. Absolutely perfect. We can't currently access funding from ancillary funds because we have a charitable fund that – to do that, but only use it for limited purposes. It might be, for example, disability support or Indigenous support; so elements of amateur sport that are charitable for other reasons but not in and of themselves (indistinct). Funding, you know, advancement and promotion of amateur sport in and of itself, we cannot do that.

So we do have situations where ancillary funds come to us and say, 'I'd like to fund, you know, my local junior club, the club that my kid played for.' We say, 'We can't do that, but we might be able to if they run a disability program or, you know, are doing some disability access improvements.' So it's a real barrier that is causing us to turn funding requests away. And, you know, as someone who's here to raise philanthropic funds for sport, that hurts.

**MR SEIBERT:** I suppose just on the broader point around – because, you're right. We sort of, you know, recommended that – because there's been two steps to it; in order for community amateur sport to have DGR status, it would first need charitable status, which it doesn't currently have, and then under our principles it would need to sort of fall in to sort of as a category being eligible for DGR status - - -

**MR WALKER:** Yes.

**MR SEIBERT:** - - - where the DGR reform proposal is implemented. But why do you think that community and amateur sport should not be eligible for DGR status more broadly?

**MR WALKER:** Because the vast majority of them – there's 40,000 community sports clubs in Australia – the vast majority don't have the capability, capacity to manage, even apply for, and comply with the requirements of being a DGR. The surveys I referred to, one of the other biggest problems – and you've touched on it in different contexts here – that sports clubs face is pressure on volunteers. The admin burden is already enormous. Volunteering is declining, or at least under pressure, and the last thing clubs want, need, or could handle is the addition of a – of an extra burden.

The reason I said what I said about how we operate at the moment is we provide that DGR facility for the whole of Australian sport as a single point of contact; online donation facilities, absolutely seamless process. It's working extremely effectively; we just can't access funding from a significant and growing part of the philanthropic community. And that's the only change we're advocating for.

**MR SEIBERT:** And I'll just ask some questions sort of slightly more technical ones about that change, but I suppose one question I want to have is – well, a point I make is, yes, we also analysed sort of this through the lens of there could be, you know, potentially sort of substitution from fees to donations in the case of, say, individual sporting organisations, which would sort of raise some issues from our perspective. I don't know if you have any comments on that in terms of a broader based expansion of eligibility for DGR status?

**MR WALKER:** Well, you know, so we do have some comments and we've made some comments in the submission, and I'll just summarise a couple of the key points. One is that, if that – if that is happening or if that were to happen, it's already in breach of the obligations of those clubs that's income tax exempt, not-for-profit entities. You know, you can't – you can't have a private benefit there.

I referenced the role the – that the ASF played, and in – not just do – only do we facilitate, help and guide clubs in their fundraising, we also promote the rules, which is that you have to charge a registration fee. And you can ask your members to donate as well, but it has to be entirely separate from any registration or payment for a fee. And we manage that process and we oversee it and we work closely with the ATO in, you know, in doing so.

So in the last year, we raised around \$90 million, huge amount of it for thousands of community sports clubs. If you want to say, that risk already exists and it's already being managed. All we're seeking to do is to access funding from ancillary funds to allocate into this sector which is in dire need.

**MR SEIBERT:** So would your proposal regarding charitable status be just for community and amateur sport? Because it has been raised by some others, like a prominent charity law academic sort of like, that, you know, for example, you know, could the – could an AFL club – and, you know, I'm a supporter of an AFL club and I think – you know, or rugby league, or et cetera – but, you know, could they benefit from this? Because, I think, you know, it's one thing for community and amateur sports clubs to benefit from something, but a, you know, an AFL club with sort of membership and resources, et cetera, or a - - -

**MR WALKER:** (Indistinct) - - -

**MR SEIBERT:** - - - or would you say, you know, a yacht club that's very wealthy or some other sort of – like, how would they fall into this?

**MR WALKER:** So we have – we have proposed amateur sport only, which excludes professional sport for those reasons. You know, if one was a purist, I could – I could – I could've sought to mount the argument that arts and culture is charitable in and of itself at any level from local community groups to most of the elite organisations. The opera, the ballet, they're still a charitable cause; sport should be viewed in the same way. But I didn't think that was an argument that would ever get up, so I haven't run it. I'm talking about amateur community sport.

There are some areas which I think are a matter of policy for the government to decide whether – you know, you've referenced yacht clubs and so on – you know, I'm sure there are – there are areas of demarcation we'd need to look at, but this measure is aimed at amateur community sport as the beneficiary.

**MR SEIBERT:** And my last question is a very technical one is that the Australian Government, the Commonwealth Government, has, you know, within its sort of powers to – it defines charity for the purposes of accessing tax concession and that sort of thing. It can, you know, amend the Charities Act; it has that – the parliament could do that. But I suppose the challenge is for ensuring that, say, ancillary funds can give to a particular type of entity.

But the entity, its purpose would have to be charitable at a – at a Commonwealth level but also at state and – state level, and I suppose that's just one complicating factor here is that, if it's – I know that different states have got some different application around community and amateur sport, but, you know, it might, say, change – let's just say the law was changed to make amateur sport charitable at Commonwealth law level. That might solve part of the problem, and then you've got all the states and the ancillary fund and trust and incorporated in a particular – made in a particular state, and if that's not charitable under state law - - -

**MR WALKER:** Yes.

**MR SEIBERT:** - - - given the (indistinct) of our federation that it might still be a problem.

**MR WALKER:** No, no, very good point, Krystian. Welcome to – welcome to my world of the last few months. So part of the work we're doing is engaging with every state and territory

around this submission and around the change we're proposing at a federal level and trying to identify if there would be any consequential changes needed at a state level, what they would be and so on to ensure that we don't make a change and we still end up with a barrier in a particular state. So, you know, a complex series of discussions.

In most cases, the answer appears to be, at this stage, 'no', 'no further change'. A lot of the states harp back to common law, and as you know, there's a number of common law sort of buckets of charitable purpose and there's a sort of fourth catchall bucket of other equivalent, benevolent purposes, and their preliminary thoughts are that, if it – if it became charitable purpose at federal law, it would easily slot under that fourth heading. But we are going through that process as part of our consultation and engagement and we will ensure that it's addressed at a state level as well.

**MR SEIBERT:** Okay. Thanks.

**DR ROBSON:** Patrick, I just want to take up some of those things. Very quick question. I mean, would a better way of achieving all of this be just to have government grants for sport given the history of those? And then you talk about the advantages and disadvantages of governments grants versus what you're proposing. And then a follow-up would be, you know, if what you're proposing did go through, would it actually, you know, in some sense be a substitute for or reduce demand for government grants for these organisations?

**MR WALKER:** I think it's a great question, Alex. So my view is sport is already overly reliant on government. So community clubs are interesting because they're self-funded and they're funded out of membership fees and a little bit of local sponsorship and stuff, but at other levels, sport is overly reliant on government. If you look at the stats, 60-80 per cent of our national sporting organisations are mainly funded by government grants. So we are constantly encouraging those organisations to look at other sources.

I don't think that this additional philanthropic funding should be a substitute. I think there's always a role to – for governments to play in sport, but as one of your contributors mentioned earlier, you know, there will always be a gap between what governments can afford to fund and what the sector needs. And, you know, in this case, we're simply saying – and we have evidence – the sector wants to give to its cause. Australians want sport; they recognise the value of it to their societies, but they can't, or at least they can't through their ancillary funds, which are the vehicles set up for the very purpose of supporting causes they care about.

So, you know, there is a gap. I don't see it as a substitute; I see it as filling what will be an ever-increasing gap.

**DR ROBSON:** Thank you. Julie?

**MS ABRAMSON:** Yes. Thanks, Patrick. I wanted to ask you about volunteers. And one of the issues is how can we get some better statistics about volunteers. And we had some proposals about the Census, and we've had some of the volunteer groups ask for different types of measurements because the Census is only every so many years; there's a question about the question about volunteering.

So interested in your views about that, and particularly that a number of people who do volunteering in its space won't call it volunteering. So the fact that you're refereeing your kid's soccer match, parents may not see that as volunteering. So just interested, how can we capture it



better? Also any policies, leaving aside what we've talked about with tax, but any other policies that would support volunteering? Thanks.

**MR WALKER:** Okay. So you raise another – a great point. Unfortunately, I'm not equipped to answer that in many areas. There's a couple of things I'd like to come back on. Our colleagues at the Australian Sports Commission have a national volunteering strategy which they've just developed in sport. They would be the people to really provide any details on that.

But the things I'd like to pick up, volunteering is participation as well, right, so it's, you know, it's participating in the community activity. And we also believe – we have no evidence – but we also believe that, if this change we're proposing around charitable status for amateur sport is enacted, it will actually elevate the role of volunteering in sport in people's minds. They're not just putting the flags out at a football pitch; they're volunteering for their local charity.

And there is this challenge in getting volunteers, as we've said, in sport. It is under pressure. And we think it should be better reflected by – you know, viewed in the same way as volunteering at a soup kitchen or a, you know, or a food charity or Vinnies. It's a real community service.

So we have no evidence, but it's intuitive that it would elevate sport as a cause for volunteering purposes as well. But otherwise, I think you'd have to go to the Commission for real detail on those questions.

**MS ABRAMSON:** Thanks, Patrick.

**DR ROBSON:** Thank you. Any other questions, Krystian, Julie?

**MR SEIBERT:** Just a quick question from me, Patrick, about whether sort of making community amateur sport charitable in general, given that it already is eligible for not-for-profit status and the income tax exemption as a – as a community and amateur sports club, then to make it charitable in order to be able to receive grants from ancillary funds, it's quite a big change to make it all charitable, noting that it wouldn't necessarily be eligible for DGR each club, to sort of address this particular issue.

**MR WALKER:** Yes.

**MR SEIBERT:** Yes, in the club - - -

**MR WALKER:** Are you – yes.

**MR SEIBERT:** Sorry.

**MR WALKER:** Sorry, is what's behind your question the - - -

**MR SEIBERT:** Well, because the way that - - -

**MR WALKER:** - - - (indistinct) with the – with the ACNC and becoming a charity, in effect?

**DR ROBSON:** Well, I think that - - -

**MR SEIBERT:** Well, the way that the - - -

**DR ROBSON:** Sorry, Krystian, I was just going to jump in say – and maybe, Krystian, this is where you were going – but couldn't, instead of taking the route you're proposing, Patrick, couldn't – you know, isn't an alternative just for the government to change the rule you're talking about if it's specifically that?

**MR WALKER:** Yes, no, I wish it was, Alex. We've talked – because the reason that the – the reason that most ancillary funds can't give to this cause is because the model trust deed, which almost all use has this two-legged test. But we did – we did explore that, and unfortunately, charity – expert and eminent charity lawyer said it was not possible, and in engagement with the Government, there was no desire to open that particular can of worms again. I think it was looked at in detail within the last decade. So we think this is the only route.

We did propose to the Government that there was a route – and I'll come back to questions – question really around the regulatory, because both these are related – we did say – because when you become a charity and are doing a charitable thing, you have to register with the ACNC. That's the way the law is drafted.

And we did float with the government putting in a carveout in there in that, 'If you're doing a charitable thing, you have to register with the ACNC unless you're amateur sport,' to avoid adding that burden. That wasn't met with enthusiasm for fear of treating one's sector preferentially as compared with other sectors.

So a big concern and one of the reasons we're doing the extensive consultation we're doing over the coming months with thousands of community sports clubs is to check that they will be able to handle the regulation.

There is a gamechanger here, which is, as income tax exempt sports clubs, they've currently been in a sort of very low drag regime where they have to do nothing positive to retain that income tax exempt status. The ATO is introducing from this financial year an annual return for all income tax exempt not-for-profits, which will cover all sports clubs. So as of this year, they will have to file an annual return, you know, documenting why they are income tax exempt, how they still meet the various tests, et cetera, et cetera, et cetera.

Now the difference between what is proposed by the ATO and what small charities under \$500,000 revenues – which all of these would be – will have to file with the ACNC is minimal. It's a – it's a slight change in regime, but it's not an incremental burden. And this is what we're actually explaining to clubs. So the burden, I think, is almost neutral.

Secondly, there are governance requirements under the ACNC. Well, the sports sector wants to elevate governance. You know, all national, state sporting organisations have governance guidelines for clubs: run a committee; share your financial information; hold AGMs; all the stuff that is – that is normal in charity land, that are no different from charity land. The difference is it's not regulated. That's all. And, you know, we feel that moving it into a regulatory environment would actually help elevate governance in the sector, and that's a good thing. So we think there's a financial benefit here; there's neutral incremental admin, and there's improved governance in the sector.

**MR SEIBERT:** I suppose the challenge would be is that it is sort of – you're right – but you're right to point out that there is the – the ATO is introducing the sort of not-for-profit self-review reporting framework, but there still would be additional compliance costs with ACNC

registration in terms of the governance standards, all those things. Yes, you touched upon that, so there is that potential.

But I think that it would also have cost from the side of the ACNC in terms of having tens of thousands of new entities that would have to register as charities, because the way that – as you – I think you alluded to this – the way that it all works is you're either a not-for-profit but doesn't need to be a charity, or you're a charity. You can't sort of pick or choose.

And there's already many not-for-profits being identified through this ATO process that should be registered as charities and there's a burden on the ACNC to process that, but you potentially have tens of thousands of charities needing to – of sporting organisations needing to become charities. But I can see the benefit in terms of enhancing governance, et cetera, but if it's about allowing ancillary funds to make donations to the ASF – the ASF, it might be, yes, problematic in that sense.

I'd be interested to understand the reasons why you can't deal with this at the ancillary fund end, because there are provisions under ancillary fund guidelines, under various state and territory laws around – say, if you want to give to a government entity from an ancillary fund, you can do that in certain ways, and government entities aren't charitable either - - -

**MR WALKER:** Yes.

**MR SEIBERT:** - - - in the same way that sporting organisations aren't charitable. So when that issue arose a number of years ago, the Government didn't amend charity law and say, 'Okay. Government entities, they're kind of like charitable entities. They can be charities.' They dealt it with at the ancillary fund end. If it's possible, it would help us if you are able to share sort of the information and advice that you've been – you heard, because, yes, there's trade-offs and challenges on either side of this, and help us to understand - - -

**MR WALKER:** So what we'll do, Krystian, I'll have to take that on notice, but I'm happy to come back to you. We certainly looked at it. I mean, my (indistinct) was find the easiest way to overcome this barrier, and in a sense, I'm only reluctantly where I am because all of these hurdles were put in front of us. I do think there are – there are benefits in awarding charitable status to sport in terms of the way it's going to be elevated in the views of society given its rightful place in the – in the – in the eyes of society, perhaps attracting volunteers and so on, but if there was a very much easier way of achieving the same outcome, you know, I'm certainly open to it. So we will share that with you.

Just coming back to the regulatory thing, you know, we are going through this process between now and October. And we intend to report back to the Government after that process, having consulted with thousands of community sports clubs in every state and territory, having regard to the impact on an incorporated association in WA compared with an incorporated association in New South Wales, et cetera. And we will report back on the feedback from the sector of, 'okay, can I handle this change? Do I support this change, or don't I?'

So the change will not go ahead unless the sector wants it, and unless the sector considers that the, you know, the extra regulation if you want to put it that way, is going to be justified by the additional funding. What we would prefer to avoid is the Commission coming out against the idea in concept. It will not progress unless the sector wants it and the issues can be managed. And you know, those discussions we've had with Andrew Leigh and he is very clear about that. And we're very clear.

**MR SEIBERT:** That advice, that additional information about how, like I would like someone that, you know, grapples with the technicalities of ancillary funded charity or understand that, because I'm not – yes, I'm not quite sure about that. But we can (indistinct).

**MR WALKER:** We've been working with eminent legal advisors, Prolegis, who I know you know, and we did run into blockers on that. But I will dig out the advice and engage with Prolegis, and we will respond to you offline.

**MR SEIBERT:** Thank you, Patrick.

**MR WALKER:** Thank you very much.

**MS ABRAMSON:** Thanks Patrick.

**DR ROBSON:** Okay. So now I think we have the Stronger Charities Alliance, Hassan. Hi Hassan, how are you?

**MR H. MIRBAHAR:** I'm good. Hi Alex. Hi Krystian. Hi Julie.

**DR ROBSON:** Thank you for joining us. So if you could just state your name and the organisation that you're from. Then if you'd like to make an opening statement, and then we can get to questions.

**MR MIRBAHAR:** Yes. Thank you very much. My name is Hassan Mirbahar. I am from the Stronger Charities Alliance. And I would like to start by acknowledging the (audio malfunction).

**DR ROBSON:** We are – sorry Hassan, we are having a bit of audio problem. I don't know if others are having that as well. But yes.

**MR SEIBERT:** It should be the headset. Sometimes (indistinct).

**DR ROBSON:** Within the headset.

**MR MIRBAHAR:** Yes. (Indistinct words.)

**DR ROBSON:** We can hear you. But it's not the volume. It's the quality.

**MR MIRBAHAR:** Is it better now?

**DR ROBSON:** Yes.

**MR MIRBAHAR:** Okay. I think I'll just switch to the other microphone. So thank you very much for the opportunity. And I would like to start by acknowledging the country. I'm joining from the Gadigal lands of the Eora nation. And I pay my respects to the elders past, present, and emerging, and recognise that the sovereignty was never ceded. And I would also like to congratulate you all on behalf of the Alliance, on releasing the draft report and holding these consultations and hearings. And thank you very much for the opportunity today.

A word about the Stronger Charities Alliance. It comprises, as of today, of around 140 Australian charities which were brought together with the shared desire and vision of a thriving not-for-profit sector, where charities are empowered to advocate for lasting change in pursuit of their charitable purposes.

The Alliance was formed in 2017 in response to a number of Government Bills that could have silenced the charities on issues of national importance. We were formerly called the Hands Off Our Charities Alliance, but has changed, we have changed our name to reflect the renewed focus on bringing (indistinct) society obligations back into the heart of Australian policy making.

We submitted our initial response and have also sent some reflections on the draft report. And I'll share a couple of key messages from those. First and foremost, we welcome the Commission's recommendation 6.1 to the extent that it suggests making DGR simpler, fairer, and more consistent. As we have highlighted in our initial submission and the Commission has also expressed and emphasised that DGR is a complex system and unfit for the current realities of the charity sector.

Many charitable purposes, including advocacy are not captured by it, hence we welcome and support your recommendation to make it simpler, fairer, more consistent, and expanding the charitable purposes for DGR to (indistinct) advocacy (indistinct) among other things.

We also make two additional recommendations building on our initial submission for Commission's consideration for inclusion in its final report. First, we propose that Commission considers recommending a manifest and transparent appointment process for the Commissioner of the Australian Charities and Not-For-Profit Commission, the ACNC.

And broadly speaking, reading from the report, we appreciate the Commission's view on further strengthening the ACNC and imbuing it with additional powers to increase transparency and trust in the sector. We also welcome particular recommendation to give ACNC test case funding which could, as the draft report also suggests, help further develop the charity sector legal framework.

Generally, the Alliance is open and values any discussions and recommendations that will contribute to further increasing trust and transparency in the sector. However, we also note that the trust and transparency in the sector are intertwined with trust and transparency within the operations of the regulator and the government.

The current government and the ACNC leadership supports the charity sector's advocacy role. However, some previous regulatory approaches have been unfavourable to the sector, particularly with regards to the charity sector's advocacy role. Such (indistinct) still carries a lingering fear within the charity sector. And this was reflected in the Alliance's Voices for Change survey which we released in March 2023, whereby only 19 per cent of the respondents thought that the ACNC understood and appreciated the advocacy role.

In the same survey, 86 per cent of the respondents considered ACNC important and the sector regulation important. But 47 per cent disagreed that ACNC had free, up-front Government influence. This is partly a result of a past appointment of an ACNC Commissioner who did not support the charity sector advocacy role and rather had a strong-armed approach to towards it.

The problem, however, lies in the ACNC legislation which does not require a merit-based, transparent appointment procedure for the ACNC Commissioner, as he leaves it to ministerial

discretion, which could be used for partisan reasons as was mentioned just now. The current Government has followed a merit-based process for the appointment of the ACNC Commissioner, and the sector has warmly welcomed the process as well as the current Commissioner.

However, it is vital to prescribe a legally binding merit-based and transparent process in the law. In another instance, the Government had recently amended the Australian Human Rights Commission legislation to require a merit-based and transparent process for finding its Commissioners, and the Attorney-General's office also published some guidelines for appointments following the amendment.

The process sets a good precedent which could be emulated for the ACNC Commissioner's appointment in consultation with the sector. So based on these, we request the Commission to consider recommending in its final report, an amendment to the ACNC Act to include the transparent, manifest process for the appointment of the ACNC Commissioner.

Secondly, we request the Commission to also consider the impacts of uncertainty around the charitable advocacy on philanthropy and recommend giving more certainty about advocacy to the donors and sector.

In the draft report, the Commission has rightly pointed out, and I quote here, 'the rationale of pro-government regulation is to overcome the important principle-agent problem to protect donors, beneficiaries and taxpayers. An outcome of this is increased donor and public confidence in the charitable sector which can influence giving.

Again, the Alliance supports regulations of the sector to build such transparency and agrees that it will increase the giving. In this regard, we also wish to point out that the past regulatory approach and some gaps in the charity legislation have created uncertainty around charity advocacy role, impacting the philanthropic sector's confidence to fund charitable advocacy. Again, this was reflected in the Voices for Change survey where 66 per cent of the respondents reported that the philanthropic sector was reluctant to fund advocacy.

But compared to this, 77 per cent of the respondents had considered advocacy important for creating a lasting change, especially on complex societal problems. We have plenty of examples, some of which were mentioned by the previous speakers. However, a lack of funding means that a lot of important advocacy often remains challenging with limited resources.

While the past advocacy – anti-advocacy – regulatory approach partly created this uncertainty, it also (indistinct) from the legal ambiguities or shortcomings within the charity legislation, a vital issue in this regard is the intention of whether or not advocacy is of public benefit. Some policymakers have argued in the past that it is not, and that charities should only focus on purposes like eradicating poverty or advancing health and education, et cetera.

The Charities Act 2013 presumes public benefit in case of such charitable purposes. But it does not recognise the same for charitable advocacy, despite plenty of evidence that advocacy is indeed of public benefit.

So we think addressing the legal ambiguities will create more certainty around charitable advocacy and will likely boost philanthropic sector support of advocacy organisations. It will also assure charity sector leaders and philanthropists that legitimate advocacy is not a

compliance risk, and ensuring that charities make full use of the current tools for positive change rather than engaging in self-silencing.

So with that, I would like to repeat that we are seeking an amendment to the Charities Act to reflect that charitable advocacy is presumed to be of public benefit. And just to close out, both of these suggestions, in our assessment, do not carry any budget implications, but remain budget neutral and easy to do as well.

So thank you very much for this opportunity once again. And I'll be here for any – to answer any questions and provide clarifications.

**DR ROBSON:** Thank you, Hassan. Julie?

**MS ABRAMSON:** Look, thanks very much Hassan. Without dealing with the appointment process, and you know, there are various rules around that. I do want to explore a bit more about your views about trust and transparency with the ACNC and if there are any other types of issues like coverage, they don't have full coverage of all parts of the sector. So any other views that you wanted to express around that, and particularly also how you see their test case funding might operate – so test case funding, sorry.

**MR MIRBAHAR:** Yes. I think test case funding, like I said, it's a welcome addition. Currently there are so many areas where there are ambiguities and there is need for, you know, test case funding which could be used to develop the charity legislation further. However, on these questions we don't have a collective position as an Alliance. So our current focus right now, based on the experiences of our members from the past has been on these two specific areas.

**MS ABRAMSON:** Thank you very much.

**DR ROBSON:** Krystian?

**MR SEIBERT:** Thank you, Hassan. And thanks to Stronger Charities Alliance for your submissions and engagement with the inquiry. I just wanted to step back a bit and ask a broader question around the Alliance's view on advocacy and why you think it has a public benefit, and more broadly, why it should be eligible for DGR status.

**MR MIRBAHAR:** Yes, thank you, Krystian. And I think as previously ACOSS was speaking about the importance of advocacy it does have a critical role in Australian society and democracy for creating lasting change. A lot of our members, and charities more broadly speaking, work on several complex societal problems which do not require a simple – which often do not – are not addressed by simple solutions. And they require policy changes, legislative changes. Hence, bringing charities into the policy advocacy spaces (indistinct words).

I would also quote from one of our members from Anglicare which is a quote listed on our website as well, where Casey Chambers has said that, 'Charity isn't about helping people in poverty. It's also about creating a country where poverty does not exist'. And to address that, or create a society where poverty doesn't exist, you have to engage in a series of, you know, policy consultations on a number of issues that contribute to creating or intending a society where poverty doesn't exist.

So I think charities have a far more better role to play, and not just servicing the issues and addressing immediate needs, but much more beyond that. And we have so many examples already present by several organisations that can be brought in here. A recent Robodebt inquiry is one such example where charities and not-for-profit sector in society was more largely speaking (indistinct) advocacy role.

The disability sector has contributed immensely towards the, you know, NDIS creation and so on and so forth. And there are other more recent examples as well from so many different places. So from that perspective, addressing the second part of your question, I think DGR, with regards to the advocacy, I think it's, like I said, there has been challenges to fund advocacy in the sector. Often it is easier to go to (indistinct) and speak about services. But in advocacy it seems a lot of things may not be tangible because, you know, policy often takes a long period in terms of actually bringing the results into fruition. So it might be difficult for the philanthropic sector to see those things as well.

And when there are, you know, legal barriers where advocacy is not recognised within the DGR space, then accessing that funding becomes even more difficult. Because there is legal support for such activities in DGR, so it would become easier for the advocacy related organisations to access that funding.

**MR SEIBERT:** Okay. And I suppose we're taking sort of the – you know, we've looked at the definition of charity and, well haven't recommended any changes to the definition of charity, but then we're obviously looking at the DGR system in which charitable subtypes and purposes should be eligible. And would I be able just to get your views about there are obviously limitations around the kind of advocacy that charities can undertake in terms of they can't have a disqualifying purpose of supporting or promoting a party or a candidate. And they also can't have the disqualifying purpose of acting against public policy defined broadly around our constitutional system of Government, the rule of law, that sort of thing. It doesn't mean they can't – they can obviously disagree with Government about public policy. But they have to operate within sort of the bounds of our democratic system of government. Does the alliance have any particular views about the appropriateness of those disqualifying purposes?

**MR MIRBAHAR:** I think largely the alliance follows those disqualifying purposes as well as limits which are set into the law, and everybody in the alliance is very well aware of those, and operate within that defined legal space that is created. But like you said, there is obviously space for the charity sector to also bring disagreements or alternative views on the (indistinct) or like, ACOSS were saying earlier, to bring communities directly into the policymaking process as well.

So I think that the alliance is largely favourable of those disqualifying, or the limitations which are set by the law, and most of our members operate within those prescribed legal framework.

**MR SEIBERT:** Thank you.

**DR ROBSON:** Thank you. Julie, did you have any other questions?

**MS ABRAMSON:** No, thank you.

**DR ROBSON:** Krystian, are you done?

**MR SEIBERT:** All good, thank you very much. Very helpful.



**DR ROBSON:** Thank you very much, Hassan. That was very good.

**MR MIRBAHAR:** Well, thank you very much for the opportunity and all the best with the very long hearings.

**MS ABRAMSON:** Thank you.

**MR MIRBAHAR:** They are ongoing and then compiling the final report.

**MR SEIBERT:** Thanks so much.

**MS ABRAMSON:** Thank you.

**DR ROBSON:** Thank you for your contribution.

**MR MIRBAHAR:** Thank you.

**DR ROBSON:** Okay. So I think we'll take a break now until 12.30. And we've got a bit of a gap in the program. And we'll hear from Evan from Primary Ethics and come back at 12.30.

SHORT ADJOURNMENT [11.48 AM]

RESUMED [12.29 PM]

**DR ROBSON:** All right. So we'll get underway. So have we got Evan from Primary Ethics? Here he is. You may want to mute yourself, Krystian, it's very – it's extremely loud.

**MR SEIBERT:** Sorry.

**DR ROBSON:** The words in bold type or something, they're very - - -

**MR SEIBERT:** I'm writing a letter to the editor. I'm not. I'm not.

**DR ROBSON:** Evan, if you could turn on your mic and your camera. He may not be there – here he is. Okay. Great.

**MR E. HANNAH:** That's a very strange representation of me, I hope it's not that bad to you.

**DR ROBSON:** It does seem a bit purple. But anyway, we're - - -

**MR HANNAH:** All right.

**MS ABRAMSON:** Yes.

**MR HANNAH:** Please forgive me, I'm not trying to anonymise myself.

**DR ROBSON:** All right. Yes. We'll get underway.

**MS ABRAMSON:** It's very cyborg, Evan.

**MR HANNAH:** (Indistinct.)

**DR ROBSON:** So if you could just state your name and the organisation that you're from for the record. And then if you'd like to provide an opening statement, we're happy to hear that and then we'll get into questions.

**MR HANNAH:** My name is Evan Hannah and I am the chief executive officer of Primary Ethics, a New South Wales based not-for-profit. My opening statement is quite short. So thank you Commissioners for scheduling me today (indistinct).

**DR ROBSON:** Sorry, Evan, we're just having trouble hearing you. I think it might be the headphones.

**MR HANNAH:** Right.

**DR ROBSON:** It's not the volume again, it's the quality it's patchy.

**MR HANNAH:** Bear with me one second. (Indistinct).

**DR ROBSON:** Yes. Sure.

**MR HANNAH:** I hope this is better.

**DR ROBSON:** Very good. Crystal clear.

**MR HANNAH:** Okay. Great.

**DR ROBSON:** Thank you.

**MR HANNAH:** Right. We believe the report's recommendations are sound and will support the aims of achieving fairer and more consistent outcomes. However, I'm here today to talk about the potential negative effect of the recommendations on not-for-profits such as ourselves. And the need to ensure an accurate and current review of a charity's work before removing its DGR status.

The main purpose of Primary Ethics when were established was to provide ethics education specifically as an alternative to the delivery of special religious education – also known as scripture – in New South Wales primary schools. In this sense, we were erroneously linked by association to SRE providers who the Commission has recommended be expressly excluded from future DGR processing.

I am aware from an observer at your Sydney public hearing, that when Commissioners were asked specifically about whether Primary Ethics would lose DGR status – lose DGR status, the answer was probably, yes. I intend to make a case that will change that position.

While the opportunity for our work arose out of the need to provide a meaningful alternative to students not attending scripture, Primary Ethics should not in any way be viewed in the same construct as faith-based providers. None of our lesson materials refer in any way to the issues of

faith. What we do is important for all children, and no aspect of their identity, heritage, culture or faith is relevant to how our classes are run, or to the lessons we deliver. Our tie to scripture is a historical artifact that remains relevant to the actual time we deliver classes, but that tie can actually – overshadow what we do. And what we do is important for all children, not only students who do not do scripture.

So does Primary Ethics actually do? Students in our classes learn to use critical thinking, ethical reasoning, respectful discussion in age-appropriate scenarios approved by the Department of Education. Students will have confidence in thinking and talking about ideas, expressing their views, resisting peer pressure, and learning that it's okay to change your mind. In doing so, they acquire skills especially identified by ACARA, the Australian Curriculum and Reporting Authority and as essential for children to achieve in 21st-century learning. Unquestionably, our program aids in promoting equity, all children of all backgrounds develop their capacity to be better decision-makers and have the empathy to listen to the views of others, and confidence to put their case and to disagree respectfully. The process improves self-esteem and inevitably minimises harm suffered.

And statistics are important, in an average week our volunteer-led lessons in our classes supports teaching these valuable skills to 45,000 students, in 2500 classes, in almost 500 schools. It's vitally important to recognise how we all (indistinct words) when we recognise our organisation comprises 2200 volunteers with just 16 FTE staff that support these people as they undergo training and then facilitate classes. We make a huge contribution of social capital to society, estimated in our financial – FY23 financial report. The benefit of more than 13.1 million. And explicitly nothing we do converts taxpayer money to private benefit.

We believe it's entirely consistent with the reports written in principles to allow Primary Ethics to continue to benefit from its DGR status, independent of whatever consideration they bring to the DGR status of religious activity in schools. Everything we do complements the aims of the curriculum body ACARA, and by extension, it furthers government policies.

We receive no funding from parents, from schools, from government, we receive funding solely from donors ranging from smaller but welcome donations from community-based individuals and much larger commitments from established philanthropic groups, who after all will not donate to organisations that do not have DGR status. We never receive enough funding, but we achieve a great deal with what we do receive. But removing our DGR status would, simply, bring our work to a halt.

We align with the priorities of the broader community, as well by building volunteering (indistinct), building an ethics infrastructure and then providing the support to those schools where it is likely to have greater net benefits. I hope that some of that helps makes the case for the retention of DGR status for Primary, should it be reviewed. We are, of course, unaware of any planned processes that might be put in place about removing DGR status from some not-for-profits. And I hope our case highlights the potential poor outcomes if groups identified for review do not have the opportunity to put their case for it.

My thanks again to the Commission for the opportunity to highlight the work of primary ethics. And that's the end of my opening statement, I hope I can help you with anything that needs help.

**DR ROBSON:** Well, thanks, Evan. I'll just point the response first to the first part of your statement. Our position is, we didn't say any specific entity should be excluded, but whatever treatment of, you know, your category, it would be treated the same, in a similar way to special

religious education. And I think that was the point that (indistinct) there were some participants in last week's hearing, that, you know, raised the question, 'Well, why are categories of activities treated differently?' And we made the point, well it would be – whatever the treatment would be, would be consistent to those, just to make that - - -

**MR HANNAH:** Okay.

**DR ROBSON:** But I guess – yes, you know, as you were talking, you know, a question in my mind came up is, you know, if there's the – you know, you, obviously, do what sounds like very valuable and great work, and so, I guess, you know, the initial question, and in the spirit of our report, you know, we do identify, you know, the fact that, you know, philanthropy does fill gaps in what government does.

And so, the initial question is, well, why is there this gap, you know, this teaching that you're doing, you're teaching tolerance and all of those things that you listed? Why isn't that in the curriculum? Why doesn't the government just do it?

**MR HANNAH:** Well, it's a good question. The ACARA recommendations put these as general capabilities that should be built, and that should be done by a range of methods including encapsulating little pieces of subject areas such as, let us talk about English, and we're doing a text on English, by the way, let's have little chat about that ethical question that comes up there. The problem with that is that teachers are increasingly busy, and while it's clearly, and quite respectfully, not an obvious and valued part of their professional work to develop their own lesson plans. They're often finding themselves under pressure to do that, while they're completing a lot of other now regular administrative work. Frankly, we believe that the role of teachers, and the respect for teachers has been diluted significantly, it should be not so.

However, even then, the efficacy of teaching these skills in a concentrated manner, rather than piecemeal across a subject, allows you to determine – make sure every student gets it, every student gets it consistently. If you leave it to teachers to do in their own lesson plans, so can have an ad hoc basis, and you would find certain cohorts of students not keeping up with others.

I think overall, educators would say that this is the best way for you, and we certainly have people saying (audio malfunction). But there's been no ability to pitch to a curriculum body to say, this is obviously the best way to do it. The outcomes are clear, we have high school teachers who identify kids who did ethics classes because of the way they think and their ability to stay calm during contested ideas and discussions. And university lecturers who see this also from their new students who they believe must have done ethics classes at some point. And both groups say this should be done earlier and more consistently to widen the scope of kids' ability to learn.

But also, there's the social – broader social implications, this kids are able to have heated playground discussions without needing to resort to violence, they're capable of changing their mind, so there is benefit in many different places and schools and educators recognise this. There is, however, no scope from curriculum bodies to actually say, 'Well, that's so good, we need to make it a standalone subject.' Yet we can see the benefits of that.

And in the absence of that, and with this current remit that there's a hole in schools for SRE, we are making some good ground. And we're also now attracting quite a lot of interest from people saying, can we have this anyway, even if we're not doing SRE? So we're trying to work out a way to discuss that with them and figure out whether we need to seek some sort of variation on

(indistinct) in what we may need to do. But the demand is very high now and growing. So schools have identified this as a very, very important thing for them to do.

**DR ROBSON:** Yes. So I guess that's our – part of our question is, you know, and in the principles we developed around DGR (audio malfunction) it's the three of them, and I think this is, yes, gets into principle 2 if you like, and it is that given the, you know, given that you say that there is a gap and we accept that. Is, you know, tax-deductible – tax-deductibility for donations the best way to achieve it, or do you think, you know, a more comprehensive way of doing it would be to have it as a standalone subject funded properly by government, eventually at some point?

**MR HANNAH:** I understand the question, Alex. I think it's close to impossible to answer because of the diversity of education qualities. There are faith-based organisations that are interested in our product, that don't have to follow the NSWESA. which is the New South Wales curriculum, people who must adopt the ACARA curriculum principles. So I think that there will be consistently a gap between education systems and what is required and what is delivered and who drives that.

Our view would be that the DGR status allows us to continue to develop and modify curriculum and the pedagogy training for people who deliver this, no matter who consumes it, where. And so that would be an overarching need for some time.

**DR ROBSON:** Okay. Thanks. Krystian or Julie, do you have a question?

**MS ABRAMSON:** Krystian, after you.

**MR SEIBERT:** Thanks, Evan, for joining us. And for - - -

**MR HANNAH:** Thank you.

**MR SEIBERT:** - - - (indistinct). I just wanted to understand because – I understand that this sort of emerged when New South Wales changed the rules of allowing, sort of, ethics education to be provided in schools as an alternative to SRE - - -

**MR HANNAH:** Yes.

**MR SEIBERT:** - - - I think in back in 2010 or 11 or something like that.

**MR HANNAH:** That's correct, yes.

**MR SEIBERT:** So what is the – we're very aware now of the situation in New South Wales following our engagement with SRE providers last week, and by extension now as well, with an ethics education provider. What's the situation in other jurisdictions around Australia?

**MR HANNAH:** Okay. The historical factor of enshrining in legislation the right of religious educators to seek time in school and to be granted time in schools, that which was embedded, I think, in 1880, which is when churches gave up the right to – when they said the government can build schools as well and run them. That's been a key factor in New South Wales and the significant difference between New South Wales and other, you know, states.

Queensland has scripture in a similar manner to New South Wales, but it's not quite as prevalent. And while there's been demand for ethics there, finally the current policies of the education department are that ethics cannot be provided as an alternative. Now we're working on that because it's just illogical, and there's a lot of demand for that in Queensland. So I would say, I think it's 82 per cent of schools run SRE in Queensland, and I can provide those details on backchannels if you require.

Victoria used to have scripture in class time, and it was changed about three or four years ago to scripture can be delivered in schools, but only in non-curriculum hours, so before school, after school, lunchtime. And there's still demand though, for our program down there, and we've had initial discussions with different people – different schools where it might be done, and we are planning an approach to the department there.

The – South Australia, I think, I've heard the other day, has 20 per cent penetration of scripture, and it's normally delivered in a seminar-style maybe two or three hours once a term. So there's no issue there – there's no similar issue there.

WA, same thing, it's up to individual schools to decide whether they will allow scripture to occur or not. They have a different school counsel model which has much more authority over – and rights to decide what curriculum was taught.

The NT is a very changeable beast as is the ACT. The ACT is probably the next likely area for us because they do have scripture, but it's not completely focused and they're trying to work out a different model there.

So New South Wales provides that historical gap that we can step into, but that doesn't quite – I hope that's answered the first part of your question. I think that the piece I was trying to make in my opening statement is that the other schools we deliver – the schools and the effect we had, it's broader than the time constraint of being with SRE, and that's a case we would be making.

**MR SEIBERT:** Because I understand the DGR category though, is that – isn't it that it has to be as an alternative to special - - -

**MR HANNAH:** Yes.

**MR SEIBERT:** - - - religious education?

**MR HANNAH:** That's right. Yes. And that's one of the problems with the special listing, you know, we weren't able, at the time, to espouse all the other things we did and see we have a societal good, and advances, clearly, I think, government policy, all governments would have policies (indistinct words) a better society. So yes, it is that historical hook that we are on, but we were quite official with it the most.

**MR SEIBERT:** Yes. I suppose one challenge for us is that we're looking at the DGR system holistically, one problem with the way it has evolved over time is that it's kind of just had various categories of DGR bolted on.

**MR HANNAH:** Yes.

**MR SEIBERT:** And, you know, they can individually have a rationale. But overall, it lacks as a system, kind of coherence in terms of what's in, what's out - - -

**MR HANNAH:** Yes.

**MR SEIBERT:** - - - and it's evolved in that ad hoc manner. And we aren't the first to sort of find that, and I suppose the challenge in the education space is that, like, I can think of say, other organisations that might want to teach about human rights in schools or about other topics that are certainly, you know, worthy and worthwhile. But how do we develop a principled manner looking at what's in and what's out there and is – like, to go to Alex's point, is it better – and I'm not sure of commenting on any specific organisation or your organisation, but just looking at his from a holistic principles-based perspective to, sort of, go well, education is provided through, sort of, you know, the schools and there are organisations that might come in and give, you know, talks and everything like that. And there is that kind of interaction that, you know, say - - -

**MR HANNAH:** Yes. Yes.

**MR SEIBERT:** charity comes in and talks to – in school about different human rights or things like that - - -

**MR HANNAH:** (Indistinct.)

**MR SEIBERT:** But that overall, it's about, sort of, ensuring that education is provided, sort of, you know, with government, appropriate government support, more in the independent sector with fees and government support.

**MR HANNAH:** Understood. I think the difference would be, specifically, well we're aware of different groups that go into schools for all sorts of reasons. Talking about refugees and the need for empathy, talking about your human rights, talking about different aspects of other things.

**MR SEIBERT:** Yes.

**MR HANNAH:** But we would argue, well hopefully it's not an argument. We'd put the case that we provide the underlying tools and skillsets that allow you to discuss those things better. So to use a tired analogy that we use often, learning to drive a manual car is quite complex, you have to move the clutch, the gearshift, everything about the (indistinct words) where people are coming from? But in a short time, you're using a lot of skills unconsciously in driving a car and you're having a good time doing that.

We provide (indistinct) and support the ability to learn critical thinking, ethical reasoning and respectful discussion in a way that this becomes automatic for kids. And they can then have through – if someone does come in and talk about human rights, they're much more able to engage and develop and discuss ideas that come out of that. And they do that through their traditional subjects as well. These are, quite simply, essential skills for 21st-century learning, that are also quite strong in harm minimisation, making better choices, resisting peer pressure.

And we would say that until and unless departments and education institutes actually make this a bedrock of their education – sorry – respectfully, it is stated in almost every school and department's approach and then non-government organisation education – sorry – non-government education organisation approach that these are desirable things, but none of them actually deliver them in a targeted package.

This is what we're going to do once a week with all these year 2 kids because they need to learn how to do this stuff. And our curriculum is eight years – sorry – six, eight, nine years long. You can start ethics on the first day of kindy once a week and never have the same lesson right all the way through to the end of year 8. Because we constantly bring in these new ideas and scenarios, which are not discussed for their own sake, we're not telling you anything about human rights, although, we may discuss human rights issues and those things, what we're getting you to do is practice the skills underneath to make your better listeners, better decision-makers, better thinkers.

**MR SEIBERT:** Thank you. And I suppose we're also looking at, sort of, you know, the interaction of government and philanthropy, like, as in that sometimes you might provide something through philanthropy, so government then thinks it doesn't need to provide it, or vice versa.

**MR HANNAH:** Right.

**MR SEIBERT:** And this is just a hypothetical, I'm not saying that is necessarily happening, I'm interested in getting your thoughts.

**MR HANNAH:** Yes.

**MR SEIBERT:** Could it be possible, say that in New South Wales, because organisations can come in and teach about ethics and those sorts of things you talked about, the curriculum authorities might think, 'Well, we don't need to do that in the curriculum because they're going to learn that there.' Like, (indistinct) - - -

**MR HANNAH:** Yes. Yes.

**MR SEIBERT:** - - - is that a possibility?

**MR HANNAH:** That is a possibility. And what we would say to you is that, we would prefer, in some cases I think – we have 2200 committed volunteers, you know, they're doing a wonderful job and they're driven by this. But they're driven by this because the opportunity is there as a result of scripture being there. And you're helping kids not do nothing. The current description of 'Meaningful activities' which is the alternative to doing scripture or ethics fits in a lot of things, but you can do no curriculum learning at all in that time while your peers are doing scripture. So that's why we (indistinct) put it up it's a useful alternative.

I think that we would welcome, for instance, say discussion with the Department of Education in New South Wales to say – if they said, 'Look, we think that's brilliant, we want all our teachers trained in that and we want all your lesson materials.' And we work out some sort of model to support that where the funding goes back to support the original program as long as we need to, or the continual work on the development of the curriculum and the expansion of the curriculum to different markets. We would far prefer to see this used as the tool it is than to be jammed into the bucket that we are now.

But we are there, and we don't see that bucket going away for some time. I don't think the current New South Wales government has an appetite for removal of scripture, I think the education minister said so at the end of last year.



So the opportunity to – well, the forced opportunity to remain in schools is going to be there for a consistent time. In the meantime, we are working on how do we carefully develop and build our curriculum to make it more current – currency is important. It’s a bit like the harbour bridge, we have to review it over and over again. And now that we have 320 topics – sorry – 80-something topics or 320 lessons which take half an hour, but it’s a lot of work.

So we would see that our role as, you know, continuing to be a provider and thought leader with philosophers and curriculum experts in working with and training to train teachers and work with the departments elsewhere to deliver this. I think there could be a transition, but it would still need some sort of support.

**MR SEIBERT:** Thanks.

**DR ROBSON:** Julie has been waiting patiently. Julie.

**MS ABRAMSON:** Thank you. Evan, I wanted to ask you about the support that you provide for volunteers. And the context for this is that when we spoke to the religious groups, they said that they provide a great deal of support in terms of curriculum, making sure that people have the right checks to go into schools. So I’m just interested what you provide - - -

**MR HANNAH:** Sure. Sure.

**MS ABRAMSON:** - - - for your volunteers.

**MR HANNAH:** Okay. We have a very structured and deliberately so, rigid induction program, application and induction program. As part of that, all our volunteers must obtain a police clearance, which other providers do not require. But we want to see on there whether there’s anything that relates to honesty, obviously, the more serious issues such as, you know, violence or abuse. We then also require a working with children check and we interview all our applicants against a quite strong set of set of criteria, and this is done by people who have been trained in how to do this - - -

**MS ABRAMSON:** Yes.

**MR HANNAH:** - - - who are our coordinators at school level and our area managers. Some years ago, what we did – sorry – I’ll go back.

Our volunteers undergo two days of training or they can do it online and it’s a combination – it comes to ten hours of online training. It’s mostly demonstrating and participating because we are teaching people how to deliver our classes in a non-engaged way, in terms of they go on the journey which the children. There’s no didactic teaching here, you are going with them, you are not a power. So we teach them how to engage, how to continue conversations, how to expand an idea, and there are no answers, no correct answers. The scripts are very tightly scripted, we have scenarios – long lessons and the scenarios are quite tightly scripted for kids to read, teachers to read, because we don’t want them to stray off the original idea and progression of these thinkings and these learnings into other classes.

We have a very specific spiral and scaled curriculum, which allows a handoff to the next lesson, and a handoff to the next lesson, et cetera, within the topic. And sometimes the subject encourages no topics, and the themes will recur in the next year in a different way. So the

support for teachers initially is quite deep and training and a very strong assessment of them. It's very positive heavy, it's not thou shalt not pass, it's - - -

**MS ABRAMSON:** Evan, could I just interrupt you for a moment?

**MR HANNAH:** Yes. Sure.

**MS ABRAMSON:** So it's the teachers delivering the training, I thought it was the volunteers delivering the training, or (indistinct) - - -

**MR HANNAH:** Beg your pardon, so we call out facilitators in schools – the volunteers – we call them ethics teachers.

**MS ABRAMSON:** Cool. Thank you.

**MR HANNAH:** Sorry. Yes. They are volunteers. They are trained by trained trainers and in a specific situation. Once they progress, and about to hit the classroom, we send them a whole of reminders and tips about what they need to do to engage classes and to not worry about things, things may go slightly wrong the first two lessons. We have an established classroom support team with some paid and volunteer staff who contact every teacher within a few months of them starting. And are a resource for them to call or email at any time for things that may have gone wrong, can you help me here? Can I understand this? We do that with them.

We have coordinators at every school, or an area manager, a paid area manager who supports that school in the absence of a coordinator, the coordinators are volunteers, and help everybody every week to get into the classroom. If they're away, what do we do?

**MS ABRAMSON:** Yes.

**MR HANNAH:** (Indistinct.) And we have constant, the equivalent of PD training, small bits about – don't forget about this, or re-enrol at the (indistinct) to learn a bit more about that. Now that you've been teaching for six months, you may have found this challenging, have a look at this. We have a post-lesson report system, Julie, which all teachers who have taught a lesson, or was scheduled to teach a lesson, get a little alert, 'Tell us how your lesson went today.'

**MS ABRAMSON:** Yes.

**MR HANNAH:** 'How many kids were there? What else can we do? Is there something wrong with the lesson? Can we assess?' And we get close to 80 per cent, at the end of last year, of all teachers responding to that, and of those, 95 per cent saying the lesson went really well. So if we don't get responses from teachers in three weeks, or if we get three slightly negative responses from them in three weeks, they get a call from us, and we help – help them through that.

**MS ABRAMSON:** And, Evan, how many ethics – you might have said at the beginning, so I'm sorry - - -

**MR HANNAH:** Yes.

**MS ABRAMSON:** - - - if I missed it. How many ethics teachers do you support in this way?

**MR HANNAH:** 2200. 2200.

**MS ABRAMSON:** Great. Thank you.

**MR HANNAH:** So it's a pretty busy task.

**MS ABRAMSON:** That's quite a big, yes, undertaking.

**MR HANNAH:** Yes. And the risk, as you can probably understand, is that the 1500 who'd never say anything other than send in their report, they could easily drift off and actually be unhappy. We make sure we contact them anyway over time and see how they're going, and that's a really important, in not only for their satisfaction and equality of teaching, after all the outcome is what the kids get, but also a retention tool. We understand that we can't – we can't bear too high a grade of churn for us because a lot of people are parents, 70 per cent of our teachers are parents – 75 per cent, and they tend to leave the school and leave teaching ethics when their child leaves school. So - - -

**MS ABRAMSON:** That's – Evan, thank you so much. I think that's given us much more information about the ethics – because we – to be honest, I think you're probably the only one that's spoken to us directly about the ethics training.

**MR HANNAH:** Okay.

**MS ABRAMSON:** We've had submissions, I think, but not that – but that's been incredibly helpful, so thank you.

**MR HANNAH:** You're very welcome. Thanks for the opportunity, appreciate it.

Thank you very much.

**MR HANNAH:** Okay. Thanks, Alex. Thanks, Krystian. Okay. Bye bye Julie.

**DR ROBSON:** All right. We will now take a quick break until 1.20 pm and then resume. Thank you.

**MS ABRAMSON:** Thank you.

SHORT ADJOURNMENT [1.00 PM]

RESUMED [1.20 PM]

**DR ROBSON:** We'll get underway. We've got Kate and Kellie, is it? Or at least Kellie.

**MS K. MACNAUGHTAN:** Yes. Hi, how are you going?

**DR ROBSON:** All right. Good, thank you. If you could just state your name and the organisation that you're from – here she is – and if you'd like to make an opening statement, we'd be happy to hear that, and then we'll get into some questions.

**MS MACNAUGHTAN:** Yes. We're just having some issues with the background. It's automatically filled in.

**DR ROBSON:** Yes (indistinct).

**MS MACNAUGHTAN:** And Kate. There we go. As I move out of frame, we're all good.

**DR ROBSON:** It's okay. Yes. I don't know if there's much we can - - -

**MS ABRAMSON:** I think we're turning people into cyborgs. I'm so sorry. It happened with our previous speaker.

**DR ROBSON:** Yes, it was issue with the previous one as well.

**MS WHELLER:** Okay. We can make a start?

**DR ROBSON:** Yes, please. Yes.

**MS WHELLER:** Thank you for the opportunity to respond – to allow us to respond to the Productivity Commission's Future Foundations for Giving draft report. We really appreciate it. My name is Kate Wheller, I'm the executive officer at Community Information and Support, Victoria, CISVic for short, and Kellie is our policy and advocacy consultant.

**DR ROBSON:** Thank you. Please make an opening statement.

**MS WHELLER:** Sure. Just to begin with, keeping in mind we're meeting from different locations in Victoria with the help of technology, I'd just like to acknowledge the traditional owners of the land. We're coming to you from the land of the Bunurong people and I'm paying my respects to Elders past, present and future, and any joining us today from different countries. We're from CISVic. We're a peak body representing local community information and support services, and our local services assist people who are experiencing personal and financial hardship by providing information, advocacy, referrals and support services including emergency relief, and emergency relief being the provision of food and material aid.

CISVic is registered charity with the ACNC and an endorsed DGR recipient, and we have 56 member agencies. Of those 56 member agencies, they are all registered as charities, and 75 per cent of them are endorsed with DGR. We represent a large number of charities, many of which are quite small in terms of resources and funding, and 30 per cent of them are entirely volunteer run. This brings a unique – range of unique challenges when it comes to philanthropy and volunteering which we hope will be helpful to the Commission. We won't speak to every single draft recommendation or information request.

We can't speak to the donor experience, but we can speak to a number of the proposed recommendations that would impact charities with a smaller footprint. In particular, we'd like to focus on how the Australian Government can best support and encourage volunteering, and how programs and policies can help smaller organisations like ours tap into opportunities for philanthropic entities. I do have some points regarding the different recommendations. Would you like me to go through those?

**DR ROBSON:** Yes, please.

**MS WHELLER:** Okay. We'd like to start by saying that we endorse the draft reports emphasis on enhancing philanthropy, making it easier and less complicated for donors. For example, draft recommendation 4.1 to remove the \$2 threshold for tax deductible donations, and draft recommendation 6.1 for a simpler refocused DGR system that creates a fairer and more consistent outcome for donors, charities and the community. However, while we support measures to incentivise philanthropy, it's crucial to acknowledge that smaller and volunteer run charities often experience significant limitations and expenses in accessing donations. It would cost a lot to chase a dollar.

This difficulty is compounded by a philanthropic market that tends to favour more visible charities as you've mentioned in the report, leaving smaller entities at a great disadvantage. With this in mind, we're recommending a balanced approach that not only aims to increase donations across the board, but also to include measures that increase diversity in the market's distribution of philanthropic funding, and promote programs encouraging philanthropists to give locally. Recommendation 10.1 looks at supporting charities to engage with different sources of philanthropy; however, tapping into philanthropic funding requires an immense amount of existing funds, time and expertise to be allocated to this work.

And when you think about 30 per cent of volunteer only member agencies who are delivering services in a period of peak demand, having the time and the resources to put into that can be really challenging. As an entity that's largely funded by government, we're limited in what our existing budget can be allocated to this kind of work. We recommend the Commission consider measures to level this playing field so smaller charities have an enhanced ability to fund raise and access philanthropic donations. For example, the Commission could consider recommending the Government allocate funding annually, to either facilitate training for smaller entities to upskill their marketing and fundraising, or to access this sort of training from third parties.

The Commission could facilitate or incentivise the philanthropic sector to engage with charities sector about where funding is needed, much like the Federal Government departments do in their development of the Federal budget. As well, the Commission could consider incentives for privately run grant programs with open tenders that could connect smaller charities to the wealthiest contributors that charities otherwise wouldn't have access to. On the issue of regulation, draft recommendation 7.2 calls for a suite of reforms to strengthen the ACNC which resonate with our view for transparency and consistency in the regulatory approach as being essential; however, we do encourage the Commission to give particular consideration to how these reforms would impact smaller, volunteer run organisations.

Many of our organisations have a range of reporting requirements associated with existing grant funding, including to the Department of Social Services, state and local government, and other ad hoc funding. Each grant does come with individual reporting requirements; however, there is often a substantial overlap in the information requested by these bodies, and not the mechanisms in place for us to streamline that. CISVic recommends the government consider opportunities to share information or streamline reporting across a wide range of agencies, where the same or similar information is required to reduce the burden of reporting and obligations, and in turn, maximise the impact of each dollar invested whether through private, philanthropy or public grants.

Finally, to the issue of volunteering which is integral to the operations of our member agencies, we believe this area requires more support and recognition, and that's what – that's – than what is proposed in the draft recommendations. Our experience consisting with draft finding 3.2, that

volunteering rates have declined significantly since 2020, this has had a huge impact on our services and the level of support we're able to provide to people doing it tough, with many of our centres having to limit hours of operations to accommodate the volunteers availability. CISVic believes that the Commission's report should recommend policies that reflect the value of the non-financial contributions of volunteering, and reflect the true cost of volunteering.

On recommendation 7.5, we're very supportive of any measures to consider the effects of volunteers when designing policies and programs, but this doesn't go far enough to incentivise volunteering and support the work – the volunteer workforce. The cost of volunteering in Australia should be as close to zero as possible to incentivise volunteering and make it accessible to all. In addition to providing their valuable time, volunteers often pay for working children checks, police checks, training, food, transportation and uniforms. We recommend the Commission consider measures to reduce these costs. For example, allowing volunteers to claim their volunteer expenses associated with DGR organisations on their tax return.

Just as the Commission has recommended measures to support charities to tap into philanthropic funding, they should also consider measures to support charities to access and support their volunteer workforce. For example, government funding to support the cost of volunteer management and training, and funding to support the health and wellbeing of volunteers in the form of mental health resources for those volunteers in sensitive industries such as ours, where we're delivering emergency relief to people in personal and financial hardship.

We saw similar measures implemented during the pandemic, where the Victorian government invested in range of services including weVolunteer, a platform to connect volunteers to community organisations, funding 12 charities to design volunteer roles and provide advice on induction, training and management, and finally funding for programs to help volunteers improve physical and mental health, especially in emergency services. Finally, we would like to remind the Commission, and by extension the Australian Government, that while philanthropic and non-financial giving like volunteering is so important to services in the community, this is not a substitute for adequate funding for charities.

Philanthropy asks the market to fill the gaps in government funding. With this in mind, CISVic recommends the government-funded programs such as the emergency relief program, which relies upon volunteer workforce, is adequately funded to meet the costs associated with recruiting, training, and supporting volunteers. In conclusion, CISVic is broadly supportive of the draft recommendations; however, reflecting on the experience of smaller and volunteer run organisations, a more comprehensive strategy is needed, not only to enhance the volume of philanthropic donations, but also facilitate some more equitable distribution of these funds across the charity sector, and reduces the cost of volunteering in Australia to zero.

We think this approach will help support the vital services that small charities provide in our local communities, particularly as place-based services, recognising their contribution to a cohesive and supportive environment. We thank you again for the opportunity to share this perspective of our member agencies and our volunteers, and for your work in this inquiry. And we welcome any questions and comments on our views and experiences.

**DR ROBSON:** Thanks very much, Kate. I might open with a couple and then we'll go to Julie and Krystian.

**MS MACNAUGHTAN:** Would you mind – just a moment. We're just having some technical difficulties with our tripod. I'm just going to move - - -

**DR ROBSON:** Okay - - -

**MS MACNAUGHTAN:** Move just to prop you up on the back of a - - -

**MS ABRAMSON:** We're getting motion sickness here.

**MS MACNAUGHTAN:** Water bottle – yes, sorry.

**DR ROBSON:** It's like one of those 1980s rock video.

**MS MACNAUGHTAN:** That should (indistinct). Sorry about that. Sorry.

**MS ABRAMSON:** That shows your age, Alex.

**DR ROBSON:** No. Thank you again. I have a question around volunteering, and you talked about the costs of management and, you know, providing mental health services and all of those, sort of, oncosts, but then also cost to volunteers themselves. And, yes, we did have a bit of a discussion in the report around, you know, on the latter point and, you know, whether they should be available as tax deductions to volunteers, and we think there's, you know, problems and issues with that. But more generally, I guess, you know, the question would be, you know, there are some things that government, you know, is best placed to do, and in fact is only placed to do. Whereas there's other things that philanthropy itself can replicate, particularly just with money.

**MS K.WHELLER:** Yes.

**DR ROBSON:** I guess the question is, you know, and I accept that, you know, that philanthropy doesn't do this at the moment, so we're interested in, you know, why couldn't a foundation or a philanthropist come to organisations that you represent and just say, you know, 'We are going to fund those services. We're going to fund, you know, cost of management' - - -

**MS WHELLER:** Yes - - -

**DR ROBSON:** 'I'm going to give you a grant to do this mental health services. I'm going to give you a grant to, you know, cover the transportation costs of volunteers.' Why doesn't that happen? Is it just a lack of innovation, or is there a barrier? What is it? You know, and, you know, we accept, you know, your point that, well, you know, this is something that government should do, but why doesn't philanthropy do it?

**MS WHELLER:** That's a really good question, and I think for us, our experience is that particularly like a trust that's been a bequeathment, that people have been very prescriptive about how the money's going to be used, and for what exact purpose. We don't find that there's a lot of wiggle room when we're applying philanthropic funding to do anything that might be related to operational costs, and it often has to be about innovation rather than funding to do – continue to do and build on the good work that we're doing. I think that for us is a real challenge.

We were fortunate a few years ago to meet with a fellow philanthropic trust, R E Ross Trust, and they came to speak to us and say, 'What is happening as a, you know, as a peak body to say what's happening in the emergency relief space? What are the challenges? What can we be doing to better support the sector?' And I think those kind of engagements and consultations are

really important, and I think there needs to be more scope for that kind of consultation and movement within the philanthropic sector to better actually meet the needs, and respond to the challenges for the sector.

**MS MACNAUGHTAN:** I think as well, I mean, as you know we're a peak body that represents a range of different organisations, and a peak body ourselves, I think we're funded at around \$15,000-ish a year through philanthropy, so not a huge amount of money. But then when you look at what our member agencies are doing that are very local, and they're very much based in the community, those organisations that are based in areas of Victoria that might be more affluent are more likely to get funding for those, sort of, ongoing operational costs, whereas other services that in – are in areas that need our service even more, find it really hard to tap into that incentive of donors wanting to give to something that's in their community, because there's less (indistinct) to go around.

**MS WHELLER:** And an example of that was during COVID on the Mornington Peninsula where there's a Mornington Peninsula Trust, and quite a lot of money that's raised locally from the more affluent community. They were ringing our three member agencies in that area and saying, 'Would you like \$50,000? We know that, you know, demand is high. We know that you're doing it tough to meet the – to meet the demand of your community. Here's \$50,000 do what it with you – as you will'. We would love to have more conversations like that that allow us to do what we need to, you know, but allow us to really support client centred supports versus trying to make what we do, and what we need to do more of, fit within the confines of the eligibility criteria.

**DR ROBSON:** Interesting. Thank you. All right. Julie?

**MS ABRAMSON:** Thanks. I've got two questions, and one I'll get you to take on notice given the brevity of time. The first one is why do you think that volunteer numbers are falling? Is it something to do with regulatory burden? Is it something to do with what people have time available to spend? I'm just interested in your views, because the thing we do observe is that volunteering numbers actually were falling before COVID. Usually if you say, 'Well, it's a COVID thing' but, no, they actually were falling before COVID.

**MS WHELLER:** Yes. Look, I think for our sector particularly, we started in Australia in the early 1970s, we had a lot of volunteers. It was a volunteer-led movement. We had a lot of volunteers who were - - -

**MS ABRAMSON:** I used to volunteer when you had your old name.

**MS WHELLER:** Good. Wow. We had a lot of mums whose kids had gone to school who had time on their hands and wanted to (indistinct) local community. And we've still got some of those volunteers who 50 years later are still actively volunteering at their local service. What we do find is that grandparents – we have fewer mums available because they're working.

**MS ABRAMSON:** Yes.

**MS WHELLER:** We have – we still have – our volunteer base is still mostly 65 years plus.

**MS ABRAMSON:** Yes.



**MS WHELLER:** But they have more grandparenting responsibilities than they used to have, and they have some illnesses. If we're a volunteer only organisation, it's harder to find – it's that regulatory stuff because it's harder to find people who are willing to, kind of, step up into that, you know, quite (indistinct) - - -

**MS ABRAMSON:** Yes - - -

**MS WHELLER:** Role of president or secretary or treasurer to take on all of those responsibilities for the organisation. We tried recruiting younger people, but I think the nature of the work we need to do which is, you know, really skilled work with very complex clients, we need to ensure that we've got people who are adequately trained and supported, but also willing to give of a decent enough stretch of time that justifies the investment that we make in them.

**MS MACNAUGHTAN:** Yes - - -

**MS ABRAMSON:** Sorry, after you.

**MS MACNAUGHTAN:** Yes. I was going to say – I mean, I've got three things that come to mind that you've touched on as well. One of them is a real lack of connection to community that we're seeing, you know, entirely across the country with really increased loneliness, a lack of third spaces as religion is becoming less central in our communities, but whether that's a symptom of a lack of volunteering or a cause of a lack of volunteering, I'm not entirely sure. It's a bit of a chicken or the egg kind of problem. But similarly to what you said as well, you know, the aging volunteer workforce is making it a real challenge.

It's quite hard as a young person who's done quite a bit of volunteering as well. It's quite jarring when you come into an organisation to do volunteering and you don't see any of your peers in the room. It's a bit of a different incentive, especially if, you know, for example, a lot of our volunteers are women. I would be curious to know whether that would make it more difficult for men to come out and volunteer because they're seeing less of themselves in that community. As well as cost of living. Everything is very expensive. That was starting to happen before the pandemic, and if you have, you know, a two income household with kids and both parents are working full-time, I'm not sure where you find the time to do much more beyond that.

**MS ABRAMSON:** Look, that's really helpful. Also, we've heard from other volunteer organisations about problems getting the cost of insurance. Is that a problem for your organisations?

**MS WHELLER:** Look, we're really fortunate. We're funded by the state Department of Families, Fairness and Housing.

**MS ABRAMSON:** Yes.

**MS WHELLER:** And so (audio malfunction) body we get their insurance through VMIA, and that extends to all of our member agencies. You know, that's a really significant initiative - - -

**MS ABRAMSON:** Yes - - -

**MS WHELLER:** But that is of great benefit to our member agencies.

**MS ABRAMSON:** Look, that's incredibly helpful. The question I wouldn't mind if you could take on notice, and you don't have to send reams of paper to us, is you've mentioned that there's a problem, like, with ACNC reporting. Your people are reporting through grants and there's no, sort of, collation of them. I'd just be interested, even if it's just a couple of paragraphs, of the type of information because then we can have a look at it and say, 'Well, you know, why can't regular A accept what gets put into regulator B?' et cetera. Just if you'd be able to give us just a short note on that, we'd be really grateful. Thanks ladies.

**MS WHELLER:** Absolutely.

**DR ROBSON:** Thanks. I'll just ask a quick one, and then Krystian was going to follow up. As you were talking, I can't remember whether it was Kellie or Kate, it might have been both of you, about, you know, trends in volunteering and, you know, we have seen this big increase in female labour force participation which is a very positive development but, you know, part of the potential cost of that is that, you know, fewer people have time to volunteer. I'm wondering then if that points in your view to, you know, a greater role for workplace volunteering? You know, businesses allowing or, you know, funding - - -

**MS WHELLER:** Yes - - -

**DR ROBSON:** A day of volunteering for their employees or just getting your reaction to that.

**MS WHELLER:** Yes. Look, we certainly see the value of it, and for organisations like the like of Foodbank or Food Shares, there's certainly a lot of value that can be delivered. We find it harder in the service delivery function that we have to bring in those kinds of volunteers to do that work, because our volunteers actually have to undergo accredited training on assessing and delivering service to people with complex needs. It's not just something that someone can walk in for a day and deliver and leave. The nature of the work that we're asked by government to do requires us to have, you know, a very skilled and adequately trained workforce.

For us, that kind of – yes, that kind of corporate giving wouldn't be helpful, but we know – we've got member agencies that are Food Shares in regional Victoria who that kind of, you know, that workforce that comes in for a day can deliver an enormous benefit.

**MS MACNAUGHTAN:** Look, we know through data from Volunteering Australia that 78 per cent of companies have a volunteering program of that nature, but only about 15 per cent of employees in those workplaces actually participate in those programs. I would suspect that a lot of it has to do with that participation not being normalised and celebrated and promoted in those workplaces. But as well, that a lot of workplaces would be eligible to claim tax deductions if it were dollars that they were giving to those charities, but whether those sorts of deductions exist for compensation or tax write off, or credits or whatever sort of incentive you want to use for employees time, whether that exists, I'm not sure.

Based on my knowledge I don't believe it does, but any sort of incentive to, yes, encourage that time, because ultimately I feel like with everyone being so busy, and demands increasing on workers, and casualisation of the workforce, it's almost – we almost get a sense that people's time is, you know – people's dollar is really valuable, but often times people's time is even more valuable for them.

**DR ROBSON:** Thanks, Krystian.

**MR SEIBERT:** Thank you for joining us, and this is really interesting so thanks for sharing your perspectives. Just on DGR status, so you mentioned that, I think, you have DGR status, and then I think it was 70 per cent of your members have it and 30 per cent don't, do you know what the reasons are for those that don't have it? What type of organisations they are?

**MS WHELLER:** Some of them don't have it because they are volunteer only organisations that don't have the expertise, or the confidence, or the capacity to do all the required paperwork. It is quite a big process to go through to apply for the DGR. I did that for this organisation myself so I'm aware of that. And we do as a peak body offer support to our member agencies to do that, but if it's a volunteer only organisation, that can be really challenging.

**MR SEIBERT:** So you'd say that the system kind of has a disproportionate impact on volunteer run organisations to - - -

**MS WHELLER:** Yes - - -

**MR SEIBERT:** get that DGR status?

**MS WHELLER:** Yes.

**MR SEIBERT:** Because I looked you up on the ACNC register, you're a public benevolent institution. Would it be the case that most of your members that have DGR status are PBI's as well?

**MS WHELLER:** Yes. Primarily because we deliver services like the emergency relief program where we're providing that direct aid to people.

**MR SEIBERT:** And do any of them that can't get it, would they come up against issues in terms of fitting into the PBI definition? Or if they submit all the paperwork and do all of those things, they usually can fit in? Or is it that some of them have it – yes.

**MS WHELLER:** Yes, it's the fact that they don't have the capacity to do it.

**MR SEIBERT:** Okay. And just in terms of engagement with philanthropy, do any of your member organisations have relationships with, like, local community foundations? For example, I mean, they're not in every community around Australia, but they are in some.

**MS WHELLER:** Yes. I saw that our friend and colleague, Ben Rodgers, spoke to you from Inner North Foundation, so that's one that we work with in the City of Merri-bek, and that's been a great relationship because we can actually ring Ben and say, 'This is the issue that we're having with this community. This is the kind of support we need.' And the same with that – that – you know, that example I gave with the Mornington Peninsula. If they've got an issue, a challenge, they've got a solution, they could go to that trust and have a discussion and look for the funding solution there. I certainly see that there's great value in those local foundations which are flexible to provide funding for solutions that the charities have identified.

**MS MACNAUGHTAN:** But I think it also highlights as well, whether it's those local groups or individual donors, the process of hacking into philanthropic resources is very much one of who you know, not what you know. Any sort of initiatives to ensure that smaller organisations can have access to those resources, that knowledge – like we said incentivising philanthropic programs to be facilitated as open tender, rather than conversations that philanthropists are

having with charities, would really help to open up that world to smaller groups. But otherwise, you know, there are so many groups that are doing amazing work that isn't known or isn't shared because they don't have the knowledge or experience or skills to be able to do that effectively.

**MR SEIBERT:** Thank you. That's all from me.

**DR ROBSON:** Thank you. Julie, did you have any more questions?

**MS ABRAMSON:** No. That was great, and we'll be in touch just to make that easy for you to send that further information in. Thank you very much.

**MS WHELLER:** Thank you. Thank you, I really appreciate this opportunity.

**DR ROBSON:** Thank you. You've been great.

**MS WHELLER:** Thanks.

**MS MACNAUGHTAN:** Thanks. Have a good afternoon.

**DR ROBSON:** You too.

**MS WHELLER:** See you.

**DR ROBSON:** See you. Okay. Now we've got Volunteering Queensland. I think it's Andrew.

**MR A. BARTLETT:** Hello.

**DR ROBSON:** Hello. We can hear you.

**MR BARTLETT:** Hi. You can hear me but not see me yet?

**DR ROBSON:** No, not yet.

**MR BARTLETT:** No. Not sure what I've got to do about the camera. Thought I had it on, but.

**DR ROBSON:** Yes.

**MR BARTLETT:** There we go. Is that better?

**DR ROBSON:** Welcome. Yes. Thank you. Yes. If you could just state your name and the organisation that you're from, and then if you'd like to make an opening statement, we'd be happy to hear that, and then we'll get into some questions. Thank you.

**MR BARTLETT:** Yes. Thank you for that. My name is Andrew Bartlett. I'm the advocacy advisor for Volunteering Queensland. I should start by apologising for our CEO, Mara Basanovic, who's wanting to be here, but it turned out the time thing didn't work in terms of her travel arrangements. That's why it's me. We've put in a submission which I'm sure you've read and have before you in response to your draft report. I think I would keep it brief just so to keep more time for questions. I'll try to just say a couple of points.

Firstly, both Volunteering Queensland and having a talk with people across the volunteering sector, and I know you've – I mean, I've listened into most of the session this morning with Volunteering Victoria, and I know you've had VWA and Volunteering Australia et cetera, so I don't want to really repeat the same points. But it is actually incredibly affirming how much your draft report recognised volunteering as an essential part of giving for want of a better, you know – for a shorthand term. I think that's an important point to make. Of course, in your final report we'd like you to affirm it even more, but I may talk a little bit about that, but given you have our submission I don't see much point in going back over it.

I think, you know, the key thing, having said nice things about the draft report, the one thing we really would like you to give some reconsideration to is about providing some form of tax deductibility, or some variations on that in regards to volunteering expenses. We think that would be a significant step forward. Not the magic bullet. There's no single solution to all these things, but we believe that that would be a – that is important, and the volunteering sector in general, I think, has been advocating that for a long time. And whilst, you know, I recognise the issues you've stated about, you know, what that might raise in regards to compliance and all those things, I think, you know, those issues apply with any sort of tax deductibility at all, same with donations, cash donations et cetera.

We believe that's the one area we would really like you to give some more thought to finding – to rethinking your views. We have some other views about some of the aspects, you know, fine print I suppose you'd call it, about data collection et cetera which I'm happy to elaborate on depending on your questions, but I thought it'd be easier just to go to the, you know – that's the one bit we'd really like you to reconsider.

**DR ROBSON:** Okay.

**MR BARTLETT:** The direction of your thoughts.

**DR ROBSON:** All right. Thank you. Krystian, did you want to open with some questions.

**MR SEIBERT:** Thanks, Andrew. Thanks for joining us and for Volunteering Queensland's submission. I wanted to ask, in terms of our recommendation around government's, sort of – considering the impacts of policies and regulatory changes on volunteering, that also covers, sort of, governments looking at proactive ways to support volunteering as part of policy change, I wanted to ask you, sort of, in the experience of Volunteering Queensland and or your members, sort of, what your experience is of government in terms of engaging with volunteer run organisations around the volunteer workforce, and the impacts of policy changes on them versus say the paid workforce?

**MR BARTLETT:** Look, it's not my place to pass positive or negative reflections on actions of any particular governments but, you know, I think as a general statement and, you know, I, you know, consulted widely before putting in the submission, you know, of course any organisation, including volunteer involving organisations, appreciate any support from governments. And, you know, I – you know, the part of your recommendation about, or your finding about, you know, it'd be best if there was just consistent government funding, you know, readily applied, evidence based, et cetera, you know, I don't – we don't disagree with that per say.

But the issue, whether it's government funding, or corporate sponsorships, or personal philanthropy or, you know, is that, you know, it can be there and then it's not. And it's not a reflection on any particular level of government or anything. Whereas if you can put something

that's structurally built into the system where volunteers at all sorts of levels from the big to the small, organisations can at least know that they can get at least a little bit of help with the costs of volunteering, then that's permanent. And I guess, you know, maybe I should have said in the opening comments, although you've probably already heard it before but, you know, volunteering, you know, people are doing it willingly, no financial gain, but it's not free.

It actually costs people, and it's costing people more and more. And if it costs them too much, they stop volunteering or they do less volunteering.

**MR SEIBERT:** I suppose my question wasn't so much about the, sort of, like funding per say, although that could be – it was more of drawing on – I don't know if you were here when Volunteering Victoria was speaking earlier in the morning, and they talked about, sort of, how when there were changes rolled out to, sort of, NDIS background checks, that in their view in Victoria there wasn't, sort of, the consideration of the volunteer workforce, versus, say, the paid employee workforce, and the difference with factors and impacts that can manifest themselves in relation to, say, volunteers versus employees. (Indistinct words) - - -

**MR BARTLETT:** Look, I - - -

**MR SEIBERT:** Yes.

**MR BARTLETT:** I'd very much agree with that. And, look, you know, I'm here representing an organisation rather than presenting my own views, but to give my personal experience of someone who's only been in this role for, like, you know, three months or so, and, you know, may or may not know, but, you know, I was in parliament for 12 years, and a parliamentary advisor for a long time, and (indistinct) - - -

**MS ABRAMSON:** We do know that, Andrew. In fact, we remember you.

**MR BARTLETT:** You know. Well, whatever, but you know, just – look, you know I – you know, like I actually, sort of, think it's relevant in that sense, like (indistinct). And, you know, many – you know, I've been on a whole lot of, you know, not-for-profit boards, and management committees, unpaid roles and all that stuff, NGO sector for a long time, and I think what the core of your question is about, although correct me if I'm misreading it, is that it's just never really fully considered, the role of volunteers. It's just, sort of, a given that it will just happen. And then the people want more volunteers, they'll just, you know, they'll ask for them and maybe they'll turn up, maybe they won't.

And it's not understood as such an integral – I mean, an absolutely integral part of the social fabric. You know, you said in your draft report about volunteering being crucial to social capital. I prefer the term social fabric, perhaps because I'm not an economist, but either way, it – you know, there'll always be some of it, but, you know, the things you can do to encourage more of it and also, alongside that, maintaining it. I think, you know, part of it's encouraging people – more people to volunteer willingly, but part of it is also, when they do volunteer, that they don't go, 'Well, this is costing me a lot of money. I've got to stop,' you know. So I think that's under-recognised.

And I guess the reason I was partly saying all that is because, until I started in this role, I – you know, in all that past experience, I'd never thought about it. You know, even though I do mountains of volunteer work myself, I didn't even think of most of it as volunteer work; I just thought that it was stuff I did, you know.

**MR SEIBERT:** It is a common issue that we've heard about in terms of people not thinking that something's volunteering. So when they're asked, 'How much do you volunteer?' they don't necessarily think, 'This what I do there is volunteering.' The word can have different meanings to people, yes. Alex, I think you had some - - -

**DR ROBSON:** Yes. It was good that you raised your experience in parliament and elsewhere, because we're very mindful of that. And I wanted to press you a bit on this recommendation around, you know, governments taking into account differential impact on volunteering versus, you know, paid workforce.

I mean, can you recall in your experience – it's putting you on the spot a bit, I guess – but, you know, in the – in debates with governments of various – you know, on either side of politics, in your experience, you know, was there a focus on volunteering that you can recall and any, you know, big policy programs or – I guess because that's where the spirit of this recommendation is coming from is that, you know, when governments are rolling out things like the NDIS or something on aged care or childcare or whatever it is, it really should be, you know, something where it's, you know, discussed, you know, right from the start but then also at the cabinet level and then, you know, as part of the, you know, the parliamentary process after that. So, yes, from your experience, can you recall something where that has happened?

**MR BARTLETT:** Look, again, I have to affirm that I'm here representing Volunteering Queensland.

**DR ROBSON:** Sure, yes.

**MR BARTLETT:** I'm not here representing myself, but, you know, everybody's personal experience has value and part of what – you know, I think it's part of what I just said. Until I started in this role not many months – not many months ago, it was like – and, you know, and immersed in all the research and issue around volunteering, and I was like, 'Nobody even mentioned this to me.' You know, maybe they did as a passing thing, but nobody would mention it as, like, you know, absolutely central, or at least that I can remember.

I mean, my memory isn't perfect and all that, but, like, you know, it certainly was never – yes, I mean, I genuinely – I was just like, 'Why didn't I ever' – now that I am looking at this, this is so crucial to the fabric of a lot of stuff; not everything, but a lot of stuff. I don't recall anybody really trying to drive that point home or even mentioning it even in a small way, to be honest.

**DR ROBSON:** Yes.

**MR BARTLETT:** Which is why, I think, you know, your draft report is really valuable even though I'd like you to – or we, sorry – we would like you to have a rethink about the tax deductibility or some of the mechanisms around that.

**DR ROBSON:** Yes.

**MR BARTLETT:** The costs and volunteering aspect.

**DR ROBSON:** Thanks. Julie, did you - - -

**MS ABRAMSON:** Yes, I might just pick you up on that, Andrew, about your proposal route regarding the tax deductibility. One of the issues is the – and we’re very direct here – is the integrity risk. So in other things, you can say, ‘Well’ – you know, some things would be quite clear. You know, if you’re with a local SES or something, you’ve got a uniform, you know, there’s those things, but it is how – what type of integrity measures could you put around it. And do you have a view – and thank you for your submissions – that it should be capped at a certain amount? Because that’s another way of doing it.

**MR BARTLETT:** Yes, look, I think, you know, in drafting submission – I know it’s, you know, one of the main people responsible for it, so I’m happy to talk to it – you know, ended up deciding not to try and be too precise.

**MS ABRAMSON:** Yes.

**MR BARTLETT:** We more just wanted to get the principle agreed to and focus (indistinct) had more resources and time to work on it. And, you know, that’s always the issue with everything, you know, (indistinct) any exemptions, GST exemptions or whatever. You know, where you draw the line and all that stuff and how you police it is always an efficiency issue, I think, is the economic term, but whatever. So, you know, I’m not ignoring that. We recognise that.

But I think you balance that against, you know, the mountain of evidence that I know you’ve seen from a lot of people about the costs of, you know – I mean, the cost of living in general – but the cost of volunteering, which is increasing. And I’m sure you’ve got plenty, but, you know, in the last few years, I think the – our New South Wales counterpart released their state of volunteering report not too long ago. You know, the average volunteer expenses were estimated to be \$14.68 an hour. So, you know - - -

**DR ROBSON:** That’s similar to a figure, I think, we recently saw from WA (indistinct) there, yes.

**MR BARTLETT:** Yes. And, you know, we haven’t released our report yet, but ours is, you know, around that as well. So, you know, it costs to volunteer, and, you know, like, that’s – you know, people do it – you know, the whole definition of volunteering is people do it willingly, but, you know, willingness also incorporates, ‘I’m no longer willing because it’s just costing me too much money,’ whether it’s the petrol costs or the – all of those things. So I think that just has to be a counterbalance.

And look, you know, you could – you could put all sorts of boundaries around it, I mean, same as you are doing, and, you know, we support your recommendations about simplifying and broadening the deductible gift recipient criteria. And, you know, encouraging giving of money is good, and in some ways, we support even more the statements you made that indicated that, you know, sometimes giving time and skills is actually more valuable than just writing a cheque. Well, people don’t write cheques anymore, but, you know, (indistinct), giving money.

So if we have a system where people get, you know, a little bit of a deductibility for giving money as opposed to giving time, then it’s, you know, that’s a distortion in its – in its own way as well. But I think you could – you know, you can – you could put different boundaries around, you could say, ‘Well, you know, only if it’s volunteering for registered charities and they’ve got to be responsible for recording it,’ or you could put a cap on it. And, like, you know, to be honest, I don’t – you know, it’s not like volunteers want – you know, spend \$10,000 and want to get \$10,000 back, but - - -



**MS ABRAMSON:** Well, the other thing too - - -

**MR BARTLETT:** - - - if they could even get \$500 or something, some sort of cap on it.

**MS ABRAMSON:** Yes. The other thing too that we would have to - - -

**MR BARTLETT:** There's all sorts of ways you could do it. I - - -

**MS ABRAMSON:** Well, the other thing to think about as well, Andrew, is that a number of the people that volunteer won't actually even be in the tax system, so they won't actually be paying income tax. So that's the other thing when we look at the demographic of people who are – who are volunteering.

Could I ask you another question, please. We've been speaking to a lot of the volunteer groups, as you would've known, about data collection, about the ABS, for example, and the surveys that they do do and Census, do you have a view about what would be a good way of capturing data and the frequency? We've had everything from, 'Well, maybe it should be the monthly labour survey,' to, 'Well, the Census is okay, but it probably doesn't ask the questions in the right way,' and we've talked about that, people not recognising they're volunteering. So do you have sort of views on that?

**MR BARTLETT:** We touched on this a bit in our submission, I think. I guess, overall, look – I was going to say you can never have too much data, but it would be an overstatement – but, like, you know, we certainly - - -

**MS ABRAMSON:** You can if there's a cost to it, I think.

**MR BARTLETT:** Yes. So - - -

**MS ABRAMSON:** You know, you want data that's meaningful.

**MR BARTLETT:** Yes, you want it to be meaningful. I think – I think it's what we said in our submission; like, not against being asked in the Census as an additional way to get a different form of data on this as long as it's recognised that that will have its own limitations. The Census is already a very long form.

And there is also that issue which I know you've heard about already about, you know, how that – even how you frame the question about volunteering, particularly for people – you know, first nations people in particular, and Volunteering Queensland does work with a particular program on diversity, people with disabilities and first nations, and that same issue of, you know, what language you use. Say if you've just got a simple question on a piece of – well, it's probably not a piece of paper; it's online. Sorry, showing my age again – with the Census. It might – you know, it won't collect – you know, it – you need to have that recognition of limitations.

But having said that, you know, the one benefit of the Census is it's universal. And I think particularly for smaller communities – and one of the aspects which I, you know, in hindsight, I wish I had – we had emphasised more strongly in our submission is in regards to regional communities and smaller communities where that sort of data is hard to collect, and the Census can be valuable in that regard in particular.

And also that, you know, volunteering – you know, when talking about the fabric of society, if people aren't able to volunteer – and, you know, we'll talk about volunteers – I'm sure you know, but I think the point still needs to be made that people, when they volunteer, they don't just say, 'I just volunteer for this one group.' They often multiple – volunteer for, you know, five or 10 different groups. They don't think of it that way, but that's what they're doing. And if they're not able to do it for whatever bunch of reasons, you know, that component – the fabric reduces.

And for smaller communities, that has a bigger impact. It's not such – you know, speaking with someone from the middle of, you know, literally in the CBD of Brisbane, you know, you can cope better, but if you're in a smaller community and those things start disappearing from sporting clubs to everything else, then it's a bigger deal. So that's – I've gone beyond your question, I suppose - - -

**MS ABRAMSON:** No, no, that's fine. And if you wanted to say some more about regional issues, we've got a little bit of time; we're very happy to hear it if you didn't have a chance to put a new submission.

**MR BARTLETT:** Well, look, I'd link the regional thing to the other bit which I think we did mention in our submission around, you know, disaster relief - - -

**MS ABRAMSON:** Yes.

**MR BARTLETT:** - - - which is obviously something that people are very aware of. And, you know, it can hit big cities, it can hit the tiniest places, but it's often the smaller places, smaller communities that have the bigger trouble recovering from them. And I would tie that back, because I did want to make it our main point about, you know, urging you to reconsider some mechanism about tax deductibility for expenses. I mean, even if you can find it as narrowly as a trial or a grandfathering or something for that particular type of activity, because, particularly with Volunteering Queensland, we do have an even more a specialty in being a focal point for emergency volunteering, and so we've got a lot of experience with that.

You know, spontaneous people just, like, you know, want to help when stuff happens, and, you know, you've sort of referred to that in your draft report as well. You know, people, when there's a disaster in their local community, they want to help. But, you know, they can then do that, but if they – you know, it can end up being a much bigger cost to them. And, you know, to go back to your point about 'it's better if government directly funds that', well, yes, it is, but – this isn't having a go at government; you know, they've got competing demands all the time.

And also, as I know you all know, you know, when you get an emergency or a disaster, you know, you have the immediate challenges but cleanups and everything or whatever, but then things can go on, you know, a year, two years longer, you know. When the spotlight moves on, then it's often down to local government that's got to pick up the costs, and local governments, you know, don't always have the resources, so you get that inconsistency, which has certainly been our experience in Volunteering Queensland working with, you know, emergency volunteers where, you know, people in one situation can get reimbursement, you know, for their protective clothing or their boots or their shovels or their – all that sort of stuff and, you know, the other lot don't.

And again, that's not criticising anyone that doesn't; if they don't have the resources, they don't have the resources, but I think that, you know, that's a good example where being able to get

some – I know tax deductibility has its limitations given it's income based, et cetera, but at least it's something, because, you know, part of it's encouraging volunteering but part of it's encouraging people to volunteer again. And, you know, not having them massively out of pocket or at least getting a little bit of a way to – I mean, part of it's, you know, feeling valued as well. And I, you know, I think that applies doubly so in regional areas, the local government areas with less – you know, the local councils are less likely to have the resources.

And, you know, the so-called community spirit – I shouldn't say so-called; it's a real thing – but the – you know, you can't just keep urging everybody to rely on the community spirit, you know, providing some extra support underneath and – you know, I'm not suggesting tax deductibility or whatever mechanism you might come up with as a magic bullet, but it would at least assist in an important way, and even just showing people that it's valued.

**DR ROBSON:** Thank you very much. I think we're out of time, so, yes, thank you very much.

**MS ABRAMSON:** Thanks very much, Andrew.

**MR SEIBERT:** Yes, really appreciate it.

**MS ABRAMSON:** Thank you.

**MR BARTLETT:** No worries. Thank you for the opportunity.

**MR SEIBERT:** Thanks for coming in and (indistinct).

**MS ABRAMSON:** Thank you.

**DR ROBSON:** Yes. Thank you. Okay. So we have the next sometimes of participants from the law school at University of QLD. I'm going to be guided here by Francis. Do we have them on the line or not? This is Kim and Damian.

**MS ABRAMSON:** No. Perhaps, Francis, somebody could give them a call maybe?

**DR ROBSON:** Yes.

**MS ABRAMSON:** Unless they thought that it was Melbourne time or – was Queensland time and not Melbourne time.

**DR ROBSON:** Well, should we take a five-minute break anyway - - -

**MS ABRAMSON:** Yes, yes. Yes.

**DR ROBSON:** - - - and then, yes, we'll work out what to do after that.

**MS ABRAMSON:** Cool.

**DR ROBSON:** Thank you.

SHORT ADJOURNMENT [2.17 PM]

RESUMED [2.29 PM]

**DR ROBSON:** Okay. So I think our next participants are here. Damian, is it?

**DR K WEINERT:** Hello?

**DR ROBSON:** Hello. Welcome.

**DR WEINERT:** Hi.

**DR ROBSON:** Hi.

**DR WEINERT:** Can you hear and see us?

**DR ROBSON:** We can.

**DR WEINERT:** We seem to be having IT issues, so apologies, and time difference issues as well.

**DR ROBSON:** That's all right. At least the curtains won't fade, so it'll be fine.

**DR WEINERT:** I appreciate it's been a long day for you all, so thank you very much for tolerating our lateness and, you know, and thinking about the curtains and the cows for daylight savings.

**DR ROBSON:** Thank you. Yes. We'll get underway. If you could just state your name and the organisation that you're from for the record, and then we're happy to take a brief opening statement and then get into some questions. Welcome.

**DR WEINERT:** Thank you. I'm Dr Kim Weinert from the TC Beirne School of Law for The University of Queensland.

**MR D TOPP:** And I'm Damian Topp, CEO of the PA Research Foundation.

**DR ROBSON:** Thank you. So do you have an opening statement?

**MR TOPP:** Yes.

**DR WEINERT:** Yes, we have a very brief opening statement. So first of all, I would like to acknowledge the traditional lands which we – at The University of Queensland which we are speaking to you today. We acknowledge Elders past, present and emerging and their contribution to scholarship here at The University of Queensland and Queensland, Australia, and, of course, globally.

So, I just wanted to run through how we've structured our submissions for today. So, we're just going to make some general, broad observations about the draft report, then Damian's going to take over and talk about the rationalisation of DGR status, the charitable distributions and online

fundraising platforms, and then I will bring it home when we've got time regarding legalities and structures and the ACNC regulatory powers.

So, the general observations that we want to make about the draft report – and we speak to the submissions that we've made and in addition to our submissions – our written submissions that – to the Productivity Commission. So, whilst, in general, we welcome and agree and appreciate the depth and the complexity of the issues in which the Productivity Commission have tackled, it is a big, big task, and we appreciate the efforts and the recommendations that have been made. And in general, we do welcome the recommendations.

So, the basis of the Productivity Commission's original intent for the inquiry was primarily to seek out information to analyse and learn about giving in Australia. Central, of course, to this inquiry was to welcome reform ideas concerning the well-known, problematic areas around giving, mainly taxation and donor governance.

So, in the draft report, well, certainly, the report addresses the taxation issues and donor revenue avenues, which, of course, like we mentioned, we welcome. We are left with a sense of perplexity as to how chapter 7 falls within the inquiry's initial scope. So whilst we do not deny that the regulatory oversight of Australia's charity sector crosses over with giving, but it's the nature and the legal implications of the draft report's request for information, the recommendations pertaining to chapter 7 and parts of chapter 8, that are issues best suited for the Australian Law Reform Commission to address.

So on that point, I would hand it over to Damian.

**MR TOPP:** Okay. Thank you. So first of all, I'd just like to comment on the DGR status. I think being – working in charitable giving for 23 years and in not-for-profits in sport before that, I think – I think the move to rationalise the item 1, item 2, deductible gift recipient status is something that would be really welcomed from not-for-profits and charities right across the country.

And looking at some streamline approach of PAFs and public – whether they be public or private – where we continue to maintain a distribution requirement on those and a requirement of them to be DGR item 2s, I think, is sound, but I think the flexibility of giving within communities, and especially when you look at regional communities where maybe the sports club is their local community that supports so much, I think all those to blanket item 1 DGR status would clean things up in that space.

The second point I want to make is, one of the – one of the items requesting information was around distribution thresholds for charities. I think that would be a real backwards step if we were to move towards that. On many occasions, the charity's got to look to build for the future; they've got to look for sustainability; and they also may be looking to build for capacity to, you know, buy a \$5 million piece of medical equipment or something. So, no, (indistinct) placing – I think the board of the charity is the best place for deciding on where those funds go and charities' donors hold them accountable.

I'll keep moving on quickly so I don't take up lots of time. The other thing that is probably the – one of the real ill points and the thing that has eroded trust in giving in Australia for the last 5-10 years has been the ability for individuals to establish online giving platforms – online giving pages.

Yes, definitely, there should be – there should be crowdfunding for ventures such as new entrepreneurial businesses and products, et cetera, but we should – we should have a process in place where no one can set up a GoFundMe because, you know, my child or my sister’s child has had to have medical treatment or has had to buy a new wheelchair or – because there’s already a system there. There’s a system through government or through existing charities that can provide for that need. That’s why the charities were established.

These online platforms – like, even GoFundMes – have really eroded confidence in the community, in charities, because they see that this is a – this is something that could be fraudulent. They see that, ‘Why is a charity not doing a good job or the government not doing a good job?’ and there’s this need for someone to set up a GoFundMe page for something that we already cover as a society.

And there’s been numerous cases just the last few years. There’s been one of a former Cancer Council employee from North Queensland who’s been to jail and been to court numerous times because of the money she fraudulently raised from GoFundMe pages. So I think that’s something we need to move on – move away from, and online fundraising managed through charities would really nip that in the bud.

Over to Kim.

**DR WEINERT:** Okay. Thanks, Damian. So a different (indistinct) pace. So we’re talking about legality and the structure of the ACNC regulations. So, look, we all know that the Australian model of federation has numerous shortcomings. And how our not-for-profit functions definitely – our sector functions definitely highlights the fault line within our federal state paradigm.

So, what is increasingly clear from the draft report is that there are clatters between how state and territory laws organise and oversee their respective charitable entities. And the increasing – and there seems to be an increasing demand to bind state and territory entities into a federal order; certainly for ease and convenience.

So, as we observed in our submission of 6 February, a strategic read of the draft report indicates that a federal takeover of the not-for-profit sector is a step forward, and it’s certainly a step forward in legal reform. And that takeover, federal takeover of the sector would certainly go some way, in fact a long way, to remove the barriers that prohibits a federal agenda to homogenise the structures and the function of the sector itself.

So, concerning recommendation 7.2 of the draft report, a strategic read of the report indicates that there looks like there may be a federal takeover of the sector into the futures, but whether or not the state and the territories are onboard for a federal takeover would definitely be a public and political decision.

Whether the states are prepared to hand over or hand up the responsibility of charities and their incorporated entities to a federal level has legal implications on a constitutional footing, and certainly for Attorney Generals. So if that is to be the case, it certainly warrants a formal investigation, which I think the Australian Law Reform Commission should undertake.

Now if there is one clear point we wish to make today, and that is the contestation that surrounds the constitutional validity of the ACNC and a federal takeover of the charity sector needs to be

resolved sooner rather than later, particularly if we push forward with recommendation 7.2, 7.3, and 7.4.

But of course, there is already an easy solution within our current framework, and that is to create a specialised, federal-incorporated not-for-profit entity. It's certainly well within the federal government's ambit to remove the not-for-profit company limited by guarantee from the Corporations Act and to create a standalone piece of legislation that is crafted to create – and, of course, when – and manage incorporated not-for-profit entities. Now this will reduce the well-known and future legal complexities associated with charity law, and it will certainly achieve greater efficiency and certainty at an organisational level.

So they're the main points that we wanted to make verbally to the Commission. And Damian, do you have any other points you wanted to raise before we go?

**MR TOPP:** No.

**DR WEINERT:** And happy to take questions from the Commission.

**DR ROBSON:** Thank you. Krystian. Did you want to start?

**MR SEIBERT:** Yes. Thanks for joining us. And I suppose I just wanted to quickly touch on sort of the rationale for what we explore in chapter 7. And we do discuss it at the start of chapter 7 why regulation is relevant. We didn't set out, and we don't review, the entire regulatory framework for charities in Australia, but one of the rationales for the introduction of the ACNC regulatory framework, which I was very closely involved in a previous role, was trust and confidence and the role that that plays in terms of supporting a culture of giving, and that's evident in the legislation and also in the explanatory memorandum for the ACNC Act.

And we sort of set out the sort of the logic chain there in the start of chapter 7 around there is relationship between trust and confidence and giving and governance as well. We don't overstate it, but we do say that there is a link there and there are studies that have been done around those links and therefore sort of the scope and the powers in the regulatory framework are relevant, but we don't go too far in that we haven't looked at every single thing that the ACNC Act provides, and there has been a previous review of that Act, a statutory review, that was done in 2018.

So that's sort of a bit of background about sort of why we look at a regulatory framework and why we think it's relevant, but like everything in a draft report, it's open for feedback and input and we appreciate you sharing that with us today.

I sort of wanted to go to the point that you made at the end, because I think that that's an interesting one around sort of a federal NFP entity, because, arguably, the company limited by guarantee structure is an equivalent of a federal NFP entity and we're seeing convergence between the – in many cases – the obligations required of responsible persons of incorporated associations and the duties under the Corporations Act, so they're basically the same, say, under the Victorian Incorporated Associations Act and the Corporations Act for companies limited by guarantee.

So I'd be interested in sort of, yes, your views about why the company limited by guarantee structure is – you know, why it's not sufficient in terms of a federally sort of federal incorporated structure.

But also I will sort of just push it a little bit in terms of – to understand the – your comments about that there would already be scope to create a new structure under the Corporations Act, because my understanding of the referrals from the states that enabled the Corporations Act to be legislated was that it required sort of the Act itself to be legislated rather than sort of new Acts to be created, because, when we were creating the ACNC, we, you know, we looked into these sorts of things and about sort of the – there are actually limitations in terms of the Commonwealth’s power to legislate for the creation of new incorporated associations or companies. You can regulate their conduct once they are incorporated, but that’s where the issue comes in terms of the constitution.

**DR WEINERT:** Yes, yes.

**MR TOPP:** Yes.

**MR SEIBERT:** So, yes, I guess what I don’t understand is that there’s already the power there to do it, because that wasn’t my understanding, but I’m happy to be corrected on that.

**DR WEINERT:** Yes, sure. So I think we need to detangle the charitable or the not-for-profit company limited by guarantee out of the Corps Act for clarity, for donors, and because an incorporated – sorry a company limited by a guarantee can also be a for-profit under the Corps Act. So it can be sometimes quite confusing for donors and for people, so it’s about understand how – what structure they actually are. And it’s a hangover the – from Victorian company legislation as well, the company limited by guarantee.

But the – it’s highly questionable as to – because the statutory duties in the Corps Act are turned off for company limited – well, not-for-profit company limited by guarantees. It’s still questionable as to whether that is actually true, where there’s sort of been sort of discussions that I’ve had with Melbourne – professors at Melbourne University whether or not that is – that’s actually true or not, particularly fiduciary duties. So they’re turned off, and then they’re all under the ACNC Act and governance standards. And so but not every state is yet harmonised in the incorporated associations or duties anyway, but they are when they fall under the ACNC governance standards.

So there is that – still remains that sort of disjoint, and as much as there has been progress in harmonising those laws at a state level – there has been progress made on that – but I think, to detangle it – and there’s certain other sort of – they are still required – companies limited by guarantees still are required to register with the – with the ASIC as well, so there is still that requirement of them to be part of the ASIC regime as well.

Now this is a bit left field, but the framework that actually stands at the moment is that, by detangling the – sorry, the company limited by guarantee out of the framework of the Corporations Act, whilst there is a referral power that the states gave up to federal back in the early 2000s to do it, I think it’s quite arguable that, within that referral power, when they handed over the company limited by guarantee into the Corps Act, that that allows the federal government to create legislation and regulation that touches all those structures that were caught into the Corporations Act under the referral agreement between states.

So I think it’s well within the sort of governmental ambit and power of the federal parliament to create new legislation around those entities. So there’s that argument, I think, although a bit of a long bow, and I’m sure there’s plenty of constitutional lawyers out there that will disagree with



me, but because it could've been handed them up to the federals, it's up to the federal government what laws they create around those structures. It's still - - -

**MR SEIBERT:** Yes, because - - -

**DR WEINERT:** - - - because it's well and truly within the power now of the federal government and parliament.

**MR SEIBERT:** Yes. So when the ACNC was created and the governance standards were introduced, as you noted, the Corporations Act ones are switched off. The common law sort of duties still apply, and there are criminal sort of sanctions for breaches of certain duties under the Corporations Act that still apply to companies limited by guarantee.

The governance standards under the ACNC Act only apply to an – to an entity, not to the actual directors, partly because of this exact issue that the Commonwealth, at the time, got advice they can't actually legislate outside of the Corporations Act. So I think that there – you know, we would – you know, there would be advice (indistinct) on this, but I think that there are actually barriers to removing corporates from the Corporations Act.

And I think the issue there then is, if you need to engage with the states and territories in general about this, it may not solve some of those problems that are identified in terms of enforcement powers, because – and just to also make – sort of say, we haven't actually recommended a referral of powers or a takeover. We sort of had some commentary about sort of, you know, that in a general sense, but we've sort of recommended sort of more incremental changes regarding enforcement powers. It may be sort of where things end up eventually, though, but, yes, we haven't actually said that there should be that.

**DR WEINERT:** No, certainly not, but, you know, it's laying the framework and, I guess, the path towards that direction. Because when the ACNC was conceptualised, I mean – and a lot of terminology gets tripped on itself, where it is a charity in that true charitable trust sense or is it an incorporated association that's just been branded as a charity for the ease of – so we've got all – we've got a variety of structures within the sector that is trying to be tainted by the same brush of charity, and it gets very – the language and the terminology gets tripped up a lot.

So if they were saying, like, 'We can't do this for charities,' well, maybe that's the charitable trusts. So there still remains a lot of sort of confusion and sort of – it's not very clear and the lines are very blurry around sort of structure formation and how everything's tarnished with the – with the one brush of the term 'charity' - - -

**MR TOPP:** Yes. And - - -

**DR WEINERT:** - - - when things are not-for-profit entity (indistinct).

**MR TOPP:** Yes, and – yes, we can – the hospital foundations in Queensland are statutory agencies established under a – under a – the Hospital Foundations Act, and act of parliament in Queensland, and it becomes really very restrictive for us to operate competitively with other charitable entities because we have this horrible dual line of reporting as a quasi-Queensland Government entity and to the ACNC.

And so the ACNC has really not done a lot for us to clean things up other than add yet another layer of reporting on top of what we have to do. So our ability to be effective is actually

hamstrung because of our dual reporting structure, and, you know, maybe there's something there; either statutory agencies are charities and operate under a charitable structure, or we're not.

So I think – and under the – under the definition of 'charity' as it stands at the moment, we found it difficult – might I say not us; we've been established for a while, but I've had to help newly established entities under the Hospital Foundations Act in Queensland reword a lot of the ways they put things to the ACNC to actually get that tick because of the, you know, the clear muddiness of the – of the waters over government oversight.

**MR SEIBERT:** Yes, that could be because they're regarded as a government - - -

**MR TOPP:** Correct.

**MR SEIBERT:** Yes, so that's not a product of the ACNC; that would exist irrespective of the ACNC. That's a charity law income tax exemption (indistinct) baseline case.

**MR TOPP:** Yes. Correct. But if it was either you were a charity or you're not, the statutory agency bit is really messy for us.

**DR WEINERT:** Because they try and tarnish you - - -

**MR TOPP:** Yes.

**DR WEINERT:** - - - and (indistinct) you as a charity.

**MR TOPP:** Yes.

**DR WEINERT:** Yes.

**MR SEIBERT:** Okay. Yes.

**MR TOPP:** Yes.

**MR SEIBERT:** Julie, you had some questions you wanted ask, yes?

**MS ABRAMSON:** I think we're up against the clock, aren't we?

**DR WEINERT:** I am so sorry. Thank you for - - -

**MR SEIBERT:** No, that's okay.

**MS ABRAMSON:** No, don't be – no, don't - - -

**DR WEINERT:** - - - accommodating our Queensland time.

**MS ABRAMSON:** Thank you. Thank you for appearing. That's (indistinct). Thank you for appearing.

**DR ROBSON:** Thanks very much.

**MR SEIBERT:** Yes, thank you.

**DR WEINERT:** Thank you.

**MR TOPP:** Thank you.

**MS ABRAMSON:** Thanks.

**MR TOPP:** Okay. Thanks very much.

**MR SEIBERT:** Thank you.

**DR WEINERT:** Bye.

**DR ROBSON:** Bye. Okay. Do we have Chris Shacht?

**MS ABRAMSON:** I think we've got Chris.

**DR ROBSON:** Do we?

**MS ABRAMSON:** He's out there in the cyberspace.

**DR ROBSON:** There we go.

**MS ABRAMSON:** Chris, we'll just need you to come off mute and put your camera on, if that's okay.

**DR ROBSON:** Yes, I think he's waiting.

**MR C SCHACHT:** Hello, can you hear me now?

**DR ROBSON:** We can.

**MS ABRAMSON:** We can, Chris.

**MR SCHACHT:** Great.

**DR ROBSON:** We can't see you yet, though, so - - -

**MR SCHACHT:** Okay. But you can hear me? That's more important.

**MS ABRAMSON:** We can.

**DR ROBSON:** Yes. Well, I don't know, is it?

**MS ABRAMSON:** Could be someone masquerading as you, Chris, so if we can see you, we'll know it's you.

**DR ROBSON:** Yes, if there's a video button that you've got - - -

**MR SCHACHT:** Yes, sorry. Yes, hang on, that says 'recording video'.

**DR ROBSON:** Down the bottom left-hand - - -

**MR SCHACHT:** ‘Start video’, is that the one?

**DR ROBSON:** Yes.

**MR SCHACHT:** Now what’s – dear oh dear, down there has got a red – I’ll quickly - - -

**DR ROBSON:** Yes, you just click - - -

**MS ABRAMSON:** Yes, it’ll have a little, like, a cross through it cross the video camera.

**DR ROBSON:** Yes, if you just click on - - -

**MS ABRAMSON:** So just click on it and it’ll take - - -

**MR SCHACHT:** Yes, and it’s got a ‘select a camera’. What? No, no, no, none of that.

**DR ROBSON:** Okay. We may just need to do it - - -

**MS ABRAMSON:** Here we go.

**MR SCHACHT:** There we go.

**MS ABRAMSON:** This is promising. We can see – yes.

**MR SCHACHT:** There we are.

**MS ABRAMSON:** We can see you now.

**DR ROBSON:** All right.

**MR SCHACHT:** Now you can see me.

**DR ROBSON:** Welcome. Thank you for coming. So if you could just state your name and the capacity in which you’re appearing, or the organisation that you’re from, and then if you’d like to make an opening statement briefly, and then we’ll get into questions.

**MR SCHACHT:** Very good. My name is Christopher Cleland Schacht, spelt S-c-h-a-c-h-t. In Germany, you say Schacht. Australians have turned it into Schacht. I live at (address supplied). I appear in my own right as an individual citizen, occasional donator to charities, et cetera, and as my submission says, there’s an issue about governance I’d like to raise.

**MS ABRAMSON:** Excuse me one minute. Excuse me one minute, Chris. We don’t need your address. Could I have that taken out of the record, please?

**MR SCHACHT:** Okay.

**DR ROBSON:** Yes. All good. Yes, keep going.

**MR SCHACHT:** Anyway, that's why I'm appearing. So now if you want to, I'll go to my opening statement, which I'll try to keep brief, and you can ask as many questions.

**DR ROBSON:** Thank you.

**MR SCHACHT:** I presume you've read my short letter of submission and the attachment I had from the then chairman of Bush Heritage back in 2019. First of all, I make it quite clear I am a strong supporter of the policies of Bush Heritage. I believe the work they've been doing for 20 years plus is fantastic, and I've always made, from time to time, infrequent, small donations to it and have seen their work.

Personally, I've been in – I've always had an interest going back for decades in the issue of preservation, particularly of the arid, semi-arid areas of Australia, flora and fauna. So that's been my interest, (indistinct) donated, and what they're doing all over Australia.

As a result, back in 2018, for their good work, I did something that I normally do. If I support an organisation and I agree with their aims, I join as a form of support; just become a member in this case. So I made an enquiry to their office in Melbourne: 'I'd like to become a member. What do I do?' Well, over several months of conversations with staff and ultimately the secretary of Bush Heritage, the registered secretary, it became clear that the process, what I thought would've just been filling in a form and sending it off with an appropriate membership fee would all I'd have to do like in most organisations. In the end, it was made clear to me that, no, that's not the way it was done; you have to apply to become a member.

And then I checked the constitution of Bush Heritage and found that, in the constitution, you can only become a member if another two members nominate you to become a member, and then the application goes to the board and the board itself has the right to reject your application with no review. Well, I said, 'Well, I don't know personally two members in the existing members,' and as the letter he sent me, you will see, there's only something – 60-odd members in the whole organisation. I said, 'I don't know any personally. Can you give me two names of members of South Australia I could contact?' They said, 'No, we can't do that. That's private – that's a privacy issue.'

I then worked out that the only two – the members I could work out who I knew that – not personally – the existing directors of the Bush Heritage. By being directors, they had to be a member of the organisation. So I wrote to the then-chairman, Mr Grubb, saying, 'Well, look, I'd like to apply. Could you and get one other of your board members to sign my application to be a member?'

Well, I waited and waited and waited for a long period of time. I made further phone enquiries. Finally, in the end, I received the letter which is an attachment to my submission, which goes on at some length about the wonderful work they're doing. I don't disagree with that. Then in the last part of the letter, it explains how they try to – they don't seek members, it's only a small number of members and you only have to pay \$30 a member, et cetera et cetera, to make it easier for people to afford the membership fee. Then it said, 'We try to keep this amongst ourselves who could be a member who agree to the organisation's policy and activities,' et cetera. And therefore, as you'll see in the last line of the letter, he said he doesn't – it doesn't – as the letter says – he doesn't think it's appropriate for me to be – for them to sign an application, even, to be a member, and that was that. Well, I decided, 'Oh well, I'm not going to waste my time anymore'. But when I – so that was now four years ago, five years ago. But when I found that the government was conducting, through the Productivity Commission, this inquiry into

charities, et cetera, I thought this would be an opportunity to raise an issue of governance. And it's clear to me that if you did in a publicly listed company on the stock exchange - - -

**MS ABRAMSON:** Could I just stop you there. Actually, no, we're not a forum. We don't have the form of privilege that you would have in a parliamentary inquiry. What we are interested in, because you've taken the trouble to contact us, is if you think, and you obviously do, this raises a governance issue about these small – and we're interested in taking your example and talking about it. And I know my colleague, Krystian, has some specific things. But I'm assuming that's really the conversation you want to have with us.

**MR SCHACHT:** Yes. Irrespective of the issue that I have with Heritage, that is irrelevant to what I'm asking. I think that what I'm told by previous conversations with a couple of people at your organisation, at the charities Commission, every year charities who get the tax deductibility had to submit an annual report, financially, on how much they received, what they spent it on, et cetera. And I think absolutely essential that that happen. What I would like to see is a further question going from the charities Commission to everybody who puts their annual report in because they get tax deductibility, is what is their governance structure?

Very simply, how do people become a member, separate from donators, right, separate from donators? How do you become a member? What is the right of a member, a person who applies to get refused, do they have a right of appeal? And above all, the structure says there is a membership list (indistinct). Like any other – I'm a member of other organisations and this is what you have. And when it comes every year or so, there is an election. In this case, they have to tell you when the election is for the next board meeting. Do they have three year terms, five year terms, one year term?

Or there's a vacancy, someone retires, resigns or dies in office, how do they go about notification to the members of how that election will be conducted? It would be by post of course, a postal, as many organisations do, that you would then open nominations. The organisation has a process, calling for nominations. Once nominations close, is there more than the required number, a ballot is conducted. And that's it. That's all I ask. But it doesn't happen now. And I really think this is a weakness. And if we didn't give tax deductibility, it wouldn't be an issue. But remember, all Australian taxpayers are paying for the tax deductibility. I see in a recent report – I don't know whether I'm right or wrong – over \$2 billion a year is foregone in revenue by giving tax deductibility.

**MS ABRAMSON:** They're good points, Chris. And you've raised serious governance points. What I might do, if it's okay with you, Krystian is very good at how things currently work. And we're having a conversation now about the points that you raise. Krystian?

**MR SEIBERT:** Yes. Thanks, Chris, for sharing this with us, and for your submission. So if I just walk you through a few points around this. It's quite common with a company limited by guarantee for its members and its directors to be the same or not too different. It might have the board and a few additional members outside of it. But it's a relatively common practice. But in terms of the way the ACNC handles it, so every registered charity with the ACNC has to provide its governing document. And it's on the – you can look up the ACNC register, the public sort of database. And you can type in the name of any charity.

And there's a link there – it can be a little bit hard to find, but it is there – of its governing document for that charity. So that's its constitution, depending on the kind of structure it is. And the constitution of the company will set out how members are determined, all those

processes around, you know, annual general meetings, and those sorts of things. So that is in there. There isn't a requirement to say that, you know, an organisation publish a list of members. There'd obviously be some privacy issues with that. But all the directors of the company do have to be published as the responsible persons on the ACNC register.

Now once a company, let's say it's got its members, and some companies limited by guarantee that are charities will have their board and then a few additional people. Some will have lots of different members. It just depends on how they decide – how do they decide who a member is and who isn't. And each organisation will make that decision for themselves. Once they have members, there is also an ACNC governance standard which basically says that any registered charity has to be accountable to its members. So that's a general high-level standard, but the ACNC provides examples of how it can do that, providing annual reports to its members, having a meeting – annual general meeting – that sort of thing.

But that's only to those who are already its members. So there are a few things in there in that sense. I think that it's really up to organisations themselves to determine who is a member or who is not a member. I can see problems with a regulator or a regulatory framework mandating who can be or who can't be a member. But there are some, say, some requirements there. And I suppose the broader point would be is that, you know, not commenting on any particular charity, but if people are not happy with a charity and the approach that it takes in general, I'm not saying any specific charity, they can choose, you know, who they donate to and not, et cetera, in response to sort of, you know, their various preferences, et cetera.

So there is also that kind of broader role that donors can choose to donate to another charity and that sort of thing. And that boards – and I know, I'm chair of a charity board as well – they do think about sort of what donors and other stakeholders think of their governance processes, et cetera, and make those decisions accordingly.

**MS ABRAMSON:** I suppose – I'm sorry, Chris, you were going to say something?

**MR SCHACHT:** I just want to – I agree, Krystian, with most of that comment. There's only one difference, is that the taxpayers of Australia, all taxpayers, are contributing to every one of these charitable organisations by the tax deductibility. If the tax deductibility wasn't there, then I'd probably not have much of an argument. I'd then go and do something else. But my taxpayer's money is paying for all of them. Therefore, there is a right, in my view, for the government to have legislation on the governance issue. And all it is, I don't want to write prescriptive – so on.

But what the basis would be, if there is a membership, they should, members should be able to apply. And if they think I'm not a suitable person, or anybody is not suitable, they give you a rejection. They say, no. But they give you – there is in that organisation, as in many, an appeal process. I come from the Labor party. If they rejected my membership and I've only been a member for 55 years, but they rejected it, there's an appeal process separate from the executive who rejected it. And I just think, without getting too complicated, the whole of my argument rests, basically, the taxpayers of Australia, we have no choice. The money is given as a deduction.

I don't have the right to say, 'I don't want the tax deduction, my proportion, to go to whatever the organisation, charity is'. It's automatic. And that's the way it should be. But the other side of it, they should not – they shouldn't accept the money without realising the community in a democracy has a right to know what's happening to the money and how it's being governed.

And the right of an individual to choose to be a member, and if they want to, stand for an election. That's democracy. And I can't see why most of these organisations wouldn't see that as a strength.

**DR ROBSON:** Yes. I might just jump in, Chris. I think we understand the issue that you're raising. And I think it's, you know, I think you've, without prejudicing anything, I think you've put your case very well. So on behalf of, speaking on behalf of the other Commissioners, we will take a look at this one.

**MS ABRAMSON:** Yes.

**DR ROBSON:** I think it's, you know, it does, on the face of it seem to, you know, to me have at least prima facie merit in taking a look and then we'll consider it for the final report.

**MS ABRAMSON:** Yes.

**MR SCHACHT:** Well, thank you very much. I will use another opportunity. I am still a member of the Labor party. I will probably choose to lobby, is it Andrew Leigh, the minister in charge of your organisation or whatever, and the government, as a separate issue. I don't want to belabour it, and I still just want to confirm. One other thing is that what they're doing, Bush Heritage? By the way it was started by a politician called Bob Brown. I don't see – you can't say you can't be political when the bloke who started it was Bob Brown. And he started it well, and a very good reason why I supported it. I was in the Parliament with Bob at the time.

One other thing I would just raise. You talked about joining, if they reject me, I should go and give a donation to someone else. I understand that. One of the things you might look at, which I just briefly mentioned, is that there was another organisation does exactly the same sort of work as the Bush Heritage called Conservancy Australia, mainly based out of Western Australia. They both raise large amounts of money doing excellent work. The point is, if they merge together, the overhead cost per unit should come down.

And that may be more a broader issue of that, just become someone has a good idea to run a charity, they then get the Treasurer or somebody to give you the deductibility. And more of it is gone on administration, which leads me to the final thing which I don't criticise at all. Bush Heritage shows that over 70 per cent of what they raise goes on their (indistinct). There were stories recently – I don't know whether it's true – in the media that the cancer charity that the McGrath Foundation ran at the time of the Sydney test, someone said that 80 per cent of what was raised went to administration promoting the event, and not to cancer research. Well I think, in the end, there ought to be a pretty strong view expressed on the annual reports by the charities Commission that this is not an acceptable diversion.

**MS ABRAMSON:** I understand. Chris, we understand your points. And they're well made. And, Krystian, you just had a small clarification.

**MR SEIBERT:** I wouldn't say that you should donate elsewhere. I was just saying that in general, donors can choose where they donate and if they, you know, want to donate to another charity because they're not happy with something, then that's their choice. I wasn't making a specific (indistinct).

**MR SCHACHT:** I understand. Thank you very much for indicating you will have a look at what I've raised.



**MS ABRAMSON:** Well, thank you.

**MR SCHACHT:** I will probably try and contact Bush Heritage, let them know, if they haven't worked it out that I've given a submission. I see that the chair has now changed from the time I got the letter from Mr Grubb. I hope that means they might have – by the way, I still want to be a member. I don't want to stand for the board. The last thing they need is a 77 year old, ageing, baby boomer, sitting on the board. That last thing any organisation really, at my age.

**MS ABRAMSON:** No, you've just ruined my prospects. Thanks, Chris.

**MR SCHACHT:** I'll just let that go. But thank you very much and I wish you well for your work.

**MS ABRAMSON:** Thanks a lot, Chris. We appreciate it. Thank you.

**MR SCHACHT:** Thank you.

**MS ABRAMSON:** Bye.

**MR SCHACHT:** Bye.

**DR ROBSON:** Okay. So we will take a break and come back at 3.30. Thank you.

**MS ABRAMSON:** Thanks.

SHORT ADJOURNMENT [3.12 PM]

RESUMED [3.31 PM]

**DR ROBSON:** Hello.

**MS C. KAPUT:** Hello.

**DR ROBSON:** We can't see you. We can hear you but we can't see you.

**MS KAPUT:** Okay, I - - -

**DR ROBSON:** Perhaps turn the camera on.

**MS KAPUT:** I think I've worked it out.

**DR ROBSON:** Just testing it all. That's it.

**MS KAPUT:** Okay.

**DR ROBSON:** All right. Thank you for joining us. If you could just state your name and the organisation that you're from for the record and then we're happy to hear an opening statement.

I'll just remind for your benefit, Lara, we did make a statement about this this morning that these hearings are relatively informal but we would ask participants that they not make remarks that are defamatory of others. But other than that there is a recording and a transcript will be published on the website.

So, welcome. If you could state your name and organisation and then we're happy to hear an opening statement and then we'll get into questions. Thanks.

**MS KAPUT:** Thank you. So my name is Larissa Kaput but I prefer to be called 'Lara' and I provide my apologies from Steven Unthank who couldn't make it today. He had hoped to appear. I'm a former a Jehovah's Witness whistle blower and we made a submission, an extensive submission.

My appearance today is different to the others I have been listening to. It's all about extensive philanthropy-related harm and we have eight recommendations which will speak to your inquiry. Seven within the submission and one I will make at the end of this statement today.

Firstly, I will remind you that in our submission we included the Australian Bureau of Statistics showing that about 10 million Australians are now irreligious and the story – I'm going to tell this in a story way. It's about accountability and governance on allegations regarding the Jehovah's Witnesses. So everything here is an allegation and I won't mention any names.

When I first went to make a submission, I read many of the submissions, including all of those that I could find from religious entities. And some made by seemingly independent consultants that actually appeared to be on behalf of religion. And I noted the huge number of submissions and appearances today requesting DGR status. We're not asking for that.

I want to tell the committee and those in government, who are listening and people who read the transcript in the future, about the many complaints that I and others have made over seven years – some up to 11 years – to the Australian Charity and Not for Profit Commission, the ACNC, and the Australian Securities Insurance Commission – ASIC.

The allegations concern the Jehovah's Witnesses, as I said, and primarily relate to children – Australian children – and how important it is that if the committee can act that they should because Australia has lost faith with our charities.

Naively, when the Child Abuse Royal Commission was held, I thought, 'Well, there's no way these institutions can keep their charitable status because with the Jehovah's Witnesses there was 1,800 children that were established – provided by the Jehovah's Witnesses on subpoena to have been sexually abused.'

When I made my first complaint to the ACNC in January 2017 I thought, 'Well, I really don't need to do this because it will be obvious. But this will just fast-track a loss of their charity status. It won't have to go through all of the whole of government machinations for years.' My first complaint included discrimination against women, shunning of former members, forced child labour, which is now known as modern slavery and the covering up of the child sexual abuse I mentioned for a start. And then I was flummoxed, that that harm wasn't sufficient to revoke the charitable status, that is the Jehovah's Witnesses.

So by the second month I thought, 'Well, I'll make a second complaint.' And I made that and it included the forbidding of blood transfusions, discouraging education, about family division that

was institutional and the attitude towards domestic violence, high incidences of domestic violence and poverty and rape. And just the emotional harm that had been enforced by the shunning.

When the ACNC responded they asked me to make a petition so that my request would be urgent. So I did that. I went with a group of others. We received over 1,000 signatures quite quickly and I submitted the petition and then we waited. But by October that year nothing had happened. I wrote again to say, 'Well, I understand the Jehovah's Witnesses can be pursued for criminal charges.' For example, for destroying evidence, for being accessories after the fact, perverting the course of justice, felony offences. And by holding judicial committees, that is, using a judicial power as an alternative to our justice system. And I thought, 'Well, for sure, the ACNC will get it now.'

But a year later, after chasing the ACNC many times they allowed us to have a meeting with them and during which we provided a lot of information to support the harms that have been reported. And after that they said, 'Well, we can't tell you anything because of our privacy and security provisions.' And we now know that they perhaps will be changing because it's being reviewed.

So after this we were patient and we waited for due process. I thought someone will call and ask us more questions. Someone will call and ask us to provide more evidence. But, no, as the saying goes 'We heard crickets'.

Well, then in 2020 we found out about a global property sell-off by the Jehovah's Witnesses and my partner, who I might just stop here to say my late partner, Daniel Beacom, I've written a tribute to him in the submission – but he was a major philanthropist and Chris was just mentioning Bush Heritage Australia and the Nature Conservation Foundation, Dan also volunteered with places like that, and donated to them. He believed in them. We both did. So we spent two months validating every single line of a four billion Australian dollar database of property sell-offs by the Jehovah's Witnesses and we sent it off to the ACNC.

Suddenly, the Jehovah's Witnesses who had refused to join the National Redress Scheme signed up or appeared to sign up but they had already taken the property assets called 'kingdom halls' that's their version of church, from the local congregations that built them. Children like me that helped to build kingdom halls. They took them and left just \$5,000 in each local congregation. And they transferred the assets to another entity – an entity that never signed up for the National Redress Scheme. And Australian cash was off-shored.

There was a national news story on this, which I hope you're aware of. There was an eight-page spread in June 2020 regarding a lot of these allegations, and the Jehovah's Witnesses took legal entity to have it taken down. And, in fact, News Corp who did the story, did have it taken down and we don't know why. But I just want to pause here to say that the Jehovah's Witnesses often change out their Board directors and their officers. They change their Responsible Persons regularly. They also change religious doctrine before or after government inquiries or legal action.

They make new legal entities. And one of our attachments to the submission has the list of – I think – 750 or so legal entities that are charities. They're actually five per cent of all religious charities in Australia. Excuse me for one sec. And when they make these changes they say words to the effect of, well, the new person or the new entity can say, 'I've got no idea what

you're talking about. We never do that." But of course that person wasn't there or that entity wasn't there when they actually did do that – I allege.

So in 2020, many years later, we reported they were manipulating privacy provisions and sheltering finances to the ACNC. And I also reported there was an alleged contempt of parliament by a Watchtower director. They had said there were only two child sexual abuse victims in Victoria. Even though they subpoenaed the records and their own database showed that there were actually 216. But, again, nothing happened. No investigation that we are aware of or that we know any detail about or that we have been asked to provide information for.

So then my partner and I moved to Canberra a couple of years ago. And I thought, 'You beauty. I'll have access now to offices and to parliament.' But and Chris just mentioned him, just now, the Assistant Minister for Charities, the Honourable Dr Andrew Leigh, MP said in his newsletters, 'there's an attack on charities'. And I thought, 'We are not attacking the charities, the charities are attacking us and we're reporting them.' I visited his office which is less than 10 minutes from my home but in numerous times asking he has never met with us or me. It seems he refuses.

Then I went to my local member, less than 20 minutes away, the Honourable David Smith, MP. I have never in 51 years gone to see a local member. This was the first time. I asked his staff five times could we meet with him to tell him what was going on and to provide qualified advice to any investigations. But also he hasn't met with us. He refused to meet with me through his staff.

So by 2023, again to the ACNC we reported the destruction of documents resulting in missing and forged documents. Some of these related to financial fraud that I alleged. Some of them related to child abuse records that has been alleged and there's been a number of news articles about that. Now, New South Wales police investigated and they accepted what the Jehovah's Witnesses told them, that is, the documents were ageing so it was appropriate to replace them. And I thought, 'What?' I'm nearly done.

In March 2023 after the Honourable Andrew Wilkie MP revealed another religion was associated with misconduct in parliament. I tried again. Contacted him and highlighted concerns to the new ACNC Commissioner – Commissioner Sue – forgive me, I've forgotten – Wood?

**DR ROBSON:** Woodward.

**MS KAPUT:** Woodward. Thank you. Yes, I wrote to her and I was concerned the governance standards and/or the external conduct standards were contravened because of the issues already reported but I never received any response from her – nothing at all. We're talking about Australian children and current Australian children at risk. Excuse me. My phone's ringing. I'll just try and turn it down.

We know that every three weeks a Jehovah's Witness child is reported to the Jehovah's Witnesses as sexually abused. So since I started reporting – since the start of my story that's 182 children that potentially have been sexually abused.

And also I reported modern slavery, as I mentioned, forced child labour. Most of the 28,000 or so Jehovah's Witness children today are modern slaves of this corporation and I have reported that to the Modern Slavery Commission in New South Wales.

So, in addition to the ACNC through between 2017 and 2023 we contacted not only the ACNC but also ASIC, the ATO and AUSTRAC over 20 times. And some examples of that were to the ASIC customer service team between 2017 and 2020. I contacted the ATOs Phoenix Hotline referrals in January 2019. In the ACNC again I contacted the Assessment and Intelligence team in 2020 and then, finally, between 2020 and 2023 I contacted the Misconduct and Breach Reporting. And all of these issues were like a hot potato between all of the government departments. So nobody took ownership of and actually fully investigated with qualified advice these allegations.

So just about done now. Last year we reported to the National Redress Scheme Parliamentary Inquiry that an alleged perpetrator was in charge. We asked for him to be named and they're currently considering that.

Finally, in the past few years we have informed both the Children and Young Person's Commission in Victoria or the CCYP and the Office of the Children's Guardian in New South Wales that the Jehovah's Witnesses are not compliant with mandatory reporting and nor are they compliant with Working with Children Checks. I personally was in New South Wales last month. I asked two Jehovah's Witness elders who were on the street talking to five children – sorry, it may have been three children – whether they had working with children checks and they said no.

Earlier today you heard from someone who said the working with children checks are in place. It doesn't mean these religions are necessarily compliant and I haven't seen an auditing of that.

So, finally, I would just like to give you my eighth recommendation, the seventh in the submission itself. And you've asked these questions during the course of today so I hope this will answer questions. Why don't volunteers want to give their time and money to charities anymore? Why don't philanthropists donate?

Well, for too many years there has been a presumed benefit for religion and charities. There must be a day of financial reckoning in Australia for religious harm. And surely that day is today. For the avoidance of doubt, to alleviate cost of living crisis and to be fiscally responsible here is my eighth recommendation. That the committee should bravely but confidently recommend the ceasing of financial privileges for corporate religions, that is, no tax deductions. Suddenly, you will have a lot more trust in the system. Thank you for listening and I am open to questions.

**DR ROBSON:** Thank you, Lara. I'll just ask you a question on and I appreciate your last advice to us on recommendations but we do have a recommendation about not extending DGR status to religious charities with the sole purpose – to charities with the sole purpose of advancing religion. So what is your view on that one specifically? I assume you'd be in favour of it. But I'll just get you to respond to our recommendation on that one in retaining the - - -

**MS KAPUT:** Yes. We do have a view.

**DR ROBSON:** Yes. Okay.

**MS KAPUT:** We endorse that.

**DR ROBSON:** Okay, thank you. And then - - -

**MS ABRAMSON:** But Lara – sorry - - -

**DR ROBSON:** Yes, go.

**MS ABRAMSON:** - - -I was just going to say, Alex, I just wanted to say because I know our Alex was probably about to say it as well. We want to thank you for having the bravery to talk to us. This is not an easy thing to do. I was in the Mental Health Inquiry and I know it takes a lot to come before people you don't know and to tell your story. So we do have some precise questions. But on behalf of the three of us I did want to thank you for that. Sorry, Alex.

**MR SEIBERT:** No, I want to thank you as well, Lara for sharing your story and experiences.

**DR ROBSON:** Absolutely. Yes. And then, Lara, we do have another recommendation on abolishing the category of basic religious charities and associated exemptions. Do you have a view on that one?

**MS KAPUT:** We absolutely endorse that.

**DR ROBSON:** Okay. All right. Thank you. Krystian, or Julie did you have any other questions?

**MR SEIBERT:** Julie? Did you have anything?

**MS ABRAMSON:** No. As I said I just am mindful of how hard it is to tell a story like that. And I'm grateful that you've chosen to tell us. Krystian?

**MS KAPUT:** Thank you.

**MR SEIBERT:** And – yes – thank you. And thank you very much for your comprehension submission earlier in the inquiry as well and for you sharing these perspectives and experiences with us.

**MS KAPUT:** It does feel like you've listened and I appreciate that.

**DR ROBSON:** Absolutely. Okay. I think – yes, we've read your submission and we've heard you today and I did want to get feedback on those specifically – those two recommendations. So it's great that you're able to give us such a clear answer. So, thank you very much.

**MS ABRAMSON:** Thank you, Lara.

**DR ROBSON:** Thank you, Lara.

**MR SEIBERT:** Thanks, Lara.

**DR ROBSON:** Bye.

**MS KAPUT:** Bye.

**DR ROBSON:** Okay. Shall we take a 10-minute break now? We've got Steady Advisory coming up at four o'clock. Shall we do that?

**MS ABRAMSON:** Yes. Unless there was something – did you want to – you've got some other commitments, Alex I suppose?

**DR ROBSON:** Yes. So can you take – Julie, I'll hand over to you and then  
- - -

**MS ABRAMSON:** Yes, that's fine.

**DR ROBSON:** - - -I'll rejoin later on.

**MS ABRAMSON:** Okay, thanks a lot. Thanks, Alex.

**DR ROBSON:** Right, thank you.

SHORT ADJOURNMENT [3.51 PM]

RESUMED [4.01 PM]

**MS ABRAMSON:** Hi, Will.

**MR W. ROSEWARNE:** Good afternoon, Commissioners.

**MS ABRAMSON:** We're very informal. I'm Julie. And this is Krystian and Alex is an apology just for this part of the hearing. Well, if you'd like to state your full name and position for the transcript and we invite you to have a short opening statement if you'd like to do so.

**MR ROSEWARNE:** Thank you very much. So my name is William Rosewarne. I am the founder and principle consultant of Steady Advisory which is a corporate governance advisory practice primarily based in Launceston, Tasmania. And we work across a full scope of different activities, from inception to maturity and exit for not-for-profit institutions.

And one of the things that we thought was really a point of interest for us was to delve into behavioural psychology and economics as a way in which we can explore philanthropy, not only as an activity where Government can signal to the market to say we should be supporting these good social quarters but also how we can explore ways in which the public can affect – play a larger role, by tapping into those more behavioural aspects of how humans like to support one another. But, also, you know in a healthy way compete with one another. So our submission was primarily based on that.

We were unable to complete the follow-up submission unfortunately but for the context of this particular hearing we'd also be quite happy to speak to any of the particular findings and recommendations from chapters 6, 7, 9 and 10 if that would be of assistance to the Commission's inquiry.

**MS ABRAMSON:** That would be terrific. We'd be happy to do that. Krystian?

**MR SEIBERT:** I just wonder if you want to maybe expand upon some of your key points and then we can sort of - - -

**MR ROSEWARNE:** Of course.

**MR SEIBERT:** - - -delve into it. Yes.

**MR ROSEWARNE:** Yes. So we have been working with charities for a long time. I have personally been working with them for 10 years and I have been able to see a dramatic shift in how giving has changed over the longer term and particularly the premise that technology can act as a very significant enabler for not-for-profit institutions when leveraged in the right way.

And a lot of this goes back to the sort of 2014s, 2015s, when a well-known business called 'Thankyou' who were in the bottled water space originally were tracking their impact for particular social impact projects in third world countries, around sanitation, and all those sorts of things. And one of the things they did really well was to motivate their target market, being your everyday consumer by saying, 'Your purchase means something'. And you can actually track to see where that particular bottle of water you've purchased has contributed to say the construction of a well in an African country, if that was where the particular relief went.

That was the very beginning of really harnessing this range of technologies which have really amplified giving in a very significant way. And I talked to a few different examples in our initial submission which talk about technologies like Raisely and Fundraise and then also how those could be built into more complex CRM products, to not only enable for initial fundraising campaign to be run and run successfully, but then also provide the foundation for ongoing giving relationships to kind of nurture somebody's real desire to be a good human effectively, and to keep supporting causes which mean things to them.

So it becomes not only an instance of having a single one-off donation, like you might have if you run into a charity collection volunteer on the street, rattling a can, but you can also start building those regular donation relationships into your everyday spending or your monthly budgets. And the technology now which provides a foundation for this is becoming incredibly sophisticated, also to the point where artificial intelligence is now analysing donor data, and it's able to recommend particular donations to individuals based on what their habitual giving behaviour has been in the past.

So they can be offered a donation amount which matches their approximate budget based on what the AI is telling them. So enabled to have a donor who has been spoken to by a charity in a very deep and personal way. It says, 'We'd like to re-engage you this year. We'd like to continue this relationship.' And hopefully there'll be an existence of story-telling in the middle there to continue that motivational effect which is called a trailing reward.

They can have effectively a group of supporters that act as their biggest enablers by continuing an ongoing, empathetic relationship and financial relationship. That kind of takes a lot of the effort out of the particular individuals within the charity who would otherwise be kind of very actively calling or emailing to solicit. There's emails - I'm sorry - I take that back. The technology is now doing this for them very effectively.



And one of the other points I was making in the initial submission was that it's great to have this technology but the charities behind it, trying to use it, also need to be able to understand how to interact with data and then to use data to tell good stories. And there's an example of a charity which I was working within called - - -

**MS ABRAMSON:** We just – sorry, Will – we just lost a little bit of you. We've been having a few technology problems so perhaps if you just restart what you were talking about - - -

**MR SEIBERT:** Speaking of technology - - -

**MS ABRAMSON:** That's right.

**MR ROSEWARNE:** Yes. Of course. I was talking about technology being important but also it's critical that - - -

**MS ABRAMSON:** Yes.

**MR ROSEWARNE:** - - - individuals and charities can actually use it and understand the data. So the more that they can understand the data and leverage that with good story telling the better off their relationships are going to be with their donors, their beneficiaries, with government. I have given an example of 'I Can Network' which was a charity I worked within, who recognised this very early on and with great success to go and grow build from a very small charity in 2014 to an extremely large one now, relatively speaking, that has a very strong supporter base from a beneficiary perspective, from a donor perspective and then as a service provider to government has a very good supporter base. Both in Victoria and in Queensland as a service provider within schools.

**MR SEIBERT:** Thanks so much. We're – you know – we're really interested in sort of understanding obviously where we are now - - -

**MR ROSEWARNE:** Mm.

**MR SEIBERT:** - - - in charities and the sector in terms of – you know – philanthropy – but also thinking about the future, hence the name of the draft report - - -

**MR ROSEWARNE:** Mm.

**MR SEIBERT:** - - - as well – and technology is a really interesting one because it's obviously the kind of – you know – implications for – you know – whether regulatory responses are appropriate or not and we have sort of information requesting in relation to sort of crowd-funding in that context.

**MR ROSEWARNE:** Mm.

**MR SEIBERT:** But also understanding. And it was raised in one of our other hearings earlier this week or last week around sort of digital capacity and capability within charities and not-for-profit.

**MR ROSEWARNE:** Yes.

**MR SEIBERT:** Yes, we're interested in your views about like whether say – because I think – you know – many small charities and not-for-profits would probably have issues there. But I think many small business in general for profits even would probably have perhaps issues there.

**MR ROSEWARNE:** Yes.

**MR SEIBERT:** But do you think, say, like let's say a charity of \$100 million revenue and a for-profit of \$100 million revenue, do you think that they both have the same sorts of challenges in terms of digital capability or capacity? Or there specific challenges within charities over and above or different to ones, let's say that would exist in the case of a full profit as well. Just to try to understand whether there's – you know – maybe specific market failure or some other – you know – issue here.

**MR ROSEWARNE:** Specifically, the challenge I would think would be relevant both for profit and a not for profit would be the story telling that they're trying to articulate to their target market. So whether or not those be consumers of a product or a particular donor, I don't think the challenge is any different for them.

Being able to leverage systems to go and tell them things is something where – you know – there's endless challenge for many businesses, I think, that the depth and breadth of different products out there trying to say, 'Well, we are the solution to you understanding your customers.' And leveraging every single insight that comes in from your emails and all those sorts of things. To go and say, 'Well, this is how we're going to nurture and improve this relationship over time.' Like the amount of challenge I see across all my clients is around about the same. I would say that the very significant challenge that not-for-profits have which is distinct from for profits is that they're also trying to articulate a very specific social benefit. And until recently there were very few tools available to them to allow that to happen. However, this year the release of seed kit has provided some initial free tools for charities and not-for-profits to begin using to start exploring the appropriate measurement of social impact, and then take those particular measurements that they've undertaken and convert those into stories.

That's the whole product – seed kit specifically – is attempting to be. And it's only been out for a very small number of months. So whether or not it's achieved the right amount of impact we don't know yet. But it's certainly something out there which hasn't existed before and has this very distinct purpose in mind that I think will be transforming.

**MR SEIBERT:** Thank you. I think Julie's got a question.

**MS ABRAMSON:** Yes. Well, I wanted to ask you about – I'm calling you 'Will' because I think you've called yourself 'Will' is that okay?

**MR ROSEWARNE:** I prefer the name Will but I put my legal name in there.

**MS ABRAMSON:** Yes. No. Thank you. I'm worried about consumer issues. So when you spoke before about the ability of these fundraising – well, fundraising-type reforms, to be able to follow people and to understand what their patterns of giving, et cetera. Of course, in the telecommunications world we've gone to a lot of trouble to have 'Do not call' lists.

**MR ROSEWARNE:** Of course.

**MS ABRAMSON:** And ways of people opting out. So what sort of consumer protections do you think that we'd need to have in that type of environment so people aren't receiving what they regard as unsolicited – you know – requests for contributions?

**MR ROSEWARNE:** Yes. So the technologies I speak to are very upfront about consent being important. And the particular challenge that might appear to come up when you start talking about AI interpreting data, it's looking at the donations which have come in over a particular period and whether there is a very habitual consistent donation type, or whether there's a variation of different kinds over a period of time. It's not sort of going beyond the donation data set and exploring people's spending behaviour outside of this particular giving platform. So, certainly, those privacy concerns about what it's analysing are very important and recognised in that context.

I think that the issue of not being contacted in an unsolicited way is important. However, when I speak about story telling as a continuous way to nurture the relationship, generally speaking you're not talking about a once-off email as being for a donation. That some people might find to be a little bit abrasive. The continuous communications that a charity or social enterprise, for example, might have should be ongoing over a period of time.

So that kind of is already at a point where somebody's bought in to the story, and has been brought along a particular journey. Let's say, for example, supporting a particular individual or a particular course. Say, construction of a well, somebody's following that journey along a period of time where if they were already at a point where they didn't want to be contacted they probably should have opted out earlier. But there's always means to approve, which the people telling these stories, should be giving people an option to opt out. And I think this opt out is really important because the more that the technology is used for online crowdfunding are trying to say, 'We're going to nurture the ongoing relationship.' the more incentive they have to go and pull in more data, which means the more messages they will send. And the more features they build in to say, 'If we're going to have a peer-to-peer campaign, for example, you can donate to a cause.' but the peer-to-peer campaign is inherently competitive. So it will start to go and generate messaging to say, 'Well so and so's cause donations are growing. If you want to sort of match that particular performance in support of this cause well you need to step up.' Right?

So that might be unwelcome to some particular donors. But at the same time it might also be something which is the incentive which is to very deliberately design to eke out for the charity where people's goodwill, or their other intentions which aren't necessarily solely goodwill are being activated so that particular competition behaviour, which some people have. To say, 'Well, I'd like to be the biggest donor in my workplace.' So, so and so from accounting has gone and spent – sorry, donated or collected \$2,000.00 more than me – but I want the pride of being the biggest donor in my workplace, well then I had better start doing more to collect more donations.

So it comes down to what the individual donor's preferences are. But that person's consent is absolutely going to be vital either way.

**MS ABRAMSON:** And could I ask you something that I'm on a sort of consumer theme here?

**MR ROSEWARNE:** M'mm. Go for it.

**MS ABRAMSON:** One of the criticisms that has been made with some of the platforms that have regular contributions through charities, is although it's very easy to sign up online - - -

**MR ROSEWARNE:** Yes.

**MS ABRAMSON:** - - -you cannot actually get out of it online. You've got to ring someone. So do you think – and I might – there might be something here. I'm not sure. But do you think that there should be some standards or a code of conduct around these type of things? There are some codes aren't there, Krystian, for fundraising. But I'm just thinking about in this new AI informed world if people should – you know – because you've said very clearly, 'Well, yes. Well of course they should have that.'

**MR ROSEWARNE:** M'mm.

**MS ABRAMSON:** But what kind of protections would we have?

**MR SEIBERT:** It's interesting. Because like I was just thinking about the services of it in a very kind of – we'll start thinking here in this context about like – you know – does it matter if a person's not being engaged with by another person? Like does it matter if they're having a conversation or a relationship with something that's the product of AI versus whether it's another human or not. I mean it doesn't matter whether it's required - - -

**MS ABRAMSON:** Will, is going to tell us. He's actually AI generated. It's not the real Will.

**MR ROSEWARNE:** Well, frankly, I think Air Canada might have a particular view on that. Having recently lost an in-court matter where AI – I understand – guaranteed a particular discount and they were bound to honour that discount. I think it does matter where somebody has been communicated to via AI, because AI messaging may not enable somebody to opt out and very easily, depending on how that message has been constructed by a particular platform. And there should typically be a way by which somebody can unsubscribe from particular messaging that they're receiving.

In the context of an ongoing peer-to-peer campaign, though, the totality of that withdrawal from messaging – sorry, the consent being withdrawn – could mean that the person's ongoing relationship with the charity could potentially be terminated in a way in which they want to continue their ongoing relationship but that particular fundraising campaign is one which they've chosen to kind of opt out of communications from.

So we've got to be very careful about the nature of the opt out, and just how much that encompasses. Because, for example, if AI is continuously pumping out messages to tell somebody you need to donate more or this is a campaign update. For some people that might be enough and say, 'Well, I'm done with this particular campaign but I'm still going to support the charity in the long-term. So I still want to receive messaging about that continuous story.'

For some people they might say, 'That's enough. I'm done. My relationship with the charity needs to end now because I have done the donation thing. The system has obviously kept me informed because that's what it's set up to do via a CRM functionality. But I prefer to withdraw now and cease that relationship.' Because that benevolent activity for them has ceased.

**MR SEIBERT:** It might also be something where they're sort of – you know – policy makers have to think about this. And, you know, but also that there is the role for sort of self-regulation as well in terms of like the codes and other sort of mechanisms that are used to kind of set some

sort of voluntary but still kind of – you know – applicable standards around engagements and that sort of thing.

**MR ROSEWARNE:** I think the Fundraising Institute would be very, very interested in having a sole code of conduct that says, ‘If somebody is requesting to withdraw their consent that needs to be honoured by any institution that happens to be part of the fundraising.’

**MR SEIBERT:** Okay. Julie, do you have any other questions?

**MS ABRAMSON:** Yes. Just one other thing, Will. Are you aware – because a lot of this is overseas technology as well, of how other regulators in other countries have been responding to some of these issues?

**MR ROSEWARNE:** Yes. So the technologies that I have mentioned one was founded in Sydney but is now owned by a conglomerate in the US. The other one is founded and based in the US. The scope of my enquiries haven’t quite detailed in how other jurisdictions have dealt with the privacy issues that might be of concern. It certainly would be of interest. I think that there’s certainly going to be a degree of parallel concern about how these technologies – particularly as they become more and more sophisticated are going to also come with consumer protection. Because I think we have seen that left unchecked, especially AI, does tend to make mistakes. And the people behind it, while good intentioned can also program something to perhaps be a little too eager.

And there are examples, in my experience, of even humans, completely unassisted by AI – particularly in campaigns that aren’t performing well – trying to really engender more supporters to donate. And you would be wanting to treat that as equally as a computer-generated message. You know? I don’t think that would be any different between here and say New Zealand and the UK. I would, however, not say that I have researched that for the purposes of this submission.

**MS ABRAMSON:** Thanks. And Will the other thing I wanted to ask you is about scams.

**MR ROSEWARNE:** Mm.

**MS ABRAMSON:** You know? It’s a particular concern of the ACCC as you know. They’ve been doing quite a lot of work on this. So how do we make sure that people know, ‘Well, you can’t do it absolutely.’ But you would want the platforms that you develop that are supportive to AI, to people to know that these are bona fide sites, that they’re not scam sites. So do you have any thoughts around that?

**MR ROSEWARNE:** Particularly for the ones that I have mentioned.

**MS ABRAMSON:** Yes.

**MR ROSEWARNE:** The platform compliance for somebody who has set that up is quite strict. The risk of there being an entity or a person who is trying to – well, maliciously solicit donations or distort messaging to kind of direct somebody to a fake website – I think is fairly remote only because the amount of protections built into those, for somebody even to set up a cause, and then to establish their payment route through systems like STRIPE for example.

**MS ABRAMSON:** Yes.

**MR ROSEWARNE:** They are incredibly locked down. So I think it will be – it would be quite hard for somebody to set up a scam that would appear to use the same technologies because being someone who uses both of these particular websites and STRIPE, the amount of compliance that’s built into the back end to identify the entities concerned verify the tax-deductibility of any kind of payments made through the platform. They’re very, very strict. So for somebody to generate all that, make it look legitimate, set up a payment route and gateway, and receive donations successfully would perhaps be quite a significant exercise. But then, also, a lot of these platforms are generally generating automatic receipts for those people who make donors. And I would think that if anybody was scammed, one of their first clues would probably be the lack of a generated receipt at the other end of that donation exercise.

**MS ABRAMSON:** So do you think, Will, we would probably need to have some consumer education around - - -

**MR ROSEWARNE:** On how to spot scams. Yes.

**MS ABRAMSON:** Yes. On this particular thing because we say, ‘Well, you know, I accept’ – you’re the expert here – ‘about what you say’. But now the banks are having to deal with people who are intercepting their payment systems who are putting their own text on the bank’s actual text line. So the things that we thought – perhaps the banks used to think were protection are not protections. And now I think we all know. You go into online banking to pay someone for the first time and it will ask you, ‘Are you sure you want to make this payment?’

**MR ROSEWARNE:** Yes, they’re incredibly sophisticated exercises now. I think the reason why people will often be able to spot the scam, and in my experience of 10 years, I haven’t run into any donors or for any charities, that have ever encountered the scam. That’s not to say that these things are impossible. But where there is going to be an ongoing relationship where people are aware of the cause they’re donating to, and there’s an ongoing relationship where there’s story telling underpinning it.

**MS ABRAMSON:** Yes.

**MR ROSEWARNE:** There would generally be a level of messaging that suggests that there’s going to be a fundraising appeal of some kind. So if people are primed and priming is kind of a word which I have borrowed from the literature to then be ready for a donation exercise. Like they should expect something to come with the ACNC logo that’s based on their particular website form, they’re using or the website they’re accessing, and then they should be receiving their receipts.

Like I would imagine that somebody, being subject to a one-off email from a website that says, ‘Donate to this.’ would be probably treated similarly to any other kind of person trying to maliciously access a system through like a worm or a Trojan or something like that. Because it would be unusual to receive an irregular donation request. That’s not to say that there are ad hoc appeals or occasional appeals. It really comes down to the sophistication of the particular charity and their engagement with their donor base though. The greater the donor base the more sophisticated the charity, that generally there’s going to be a lot more sophistication and planning around the appeals they’re running and the messaging that underpins all of that.

So, the level of priming I think would dictate whether or not somebody’s attempt to scam would be successful or not. To understand the amount of priming as an outsider acting maliciously would be very difficult, indeed, unless you’re also part of that community.

**MS ABRAMSON:** Thanks very much, Will. Did you have any questions, Krystian?

**MR SEIBERT:** No, all good. That's really helpful. But thanks for joining us.

**MS ABRAMSON:** Yes. And Will if you want to put in a late submission we're very happy to have that. So up to you - - -

**MR ROSEWARNE:** Fantastic.

**MS ABRAMSON:** - - - to provide but we'd be happy to have that. So, thank you.

**MR ROSEWARNE:** Well, thank you for your time, Commissioners. I really appreciate the opportunity to make the submission. I'll certainly see what I can do about speaking to those four chapters – 6, 7, 9 and 10.

**MS ABRAMSON:** Thank you.

**MR ROSEWARNE:** I would like to make a further submission. I spoke with the team about submitting something late but I will see what I can do. Thank you.

**MS ABRAMSON:** That's great. Thanks, Will. Thank you.

**MR ROSEWARNE:** Thank you both.

**MS ABRAMSON:** Thank you.

**MR SEIBERT:** Have a good day.

**MS ABRAMSON:** Now, I'm just communicating with Francis now to see if our (indistinct) person is able to come on a bit earlier. If not we'll take a short break and reconvene. So I know Francis can hear me. Well we might take a short break. Perhaps a 10-minute break and we'll come back at 20 to 5.00 – actually quarter to 5.00 would give us more time.

**MR SEIBERT:** Yes.

**MS ABRAMSON:** Thank you. So we'll be back at quarter to 5.00. Thanks everyone.

SHORT ADJOURNMENT [4.28 PM]

RESUMED [4.44 PM]

**MS ABRAMSON:** Okay. We might reconvene. I can see you're there, Krystian, and I know that Cat is online. So, Francis, I'm sure you'll make the arrangements for Cat to speak to us. Hello.

**MS C. FAY:** Hello.

**MS ABRAMSON:** Hello Cat. Thank you for being a final official speaker and thank you for bringing forward your time as well. Could I get you to state your name for the transcript and also your position and invite you to make an opening statement should you wish to do so?

**MS FAY:** Thanks, Commissioner. And my name is Cat Fay. I'm a managing partner at Perpetual and I am a managing partner actually of our community and social investments business which includes the work that Perpetual does as a trustee for philanthropists, and we also work extensively with not-for-profit organisations and our First Nations communities that have secured or decided to extinguish native title. And to that end, Commissioner, I'd just like to acknowledge that I am coming from Gadigal Lands today and I'd like to pay my respects to any Elders past or present and any Elders that are with us on the call today as well.

**MS ABRAMSON:** We're very informal, Cat. It's fine. I have been calling you Cat. Julie and Krystian and Alex sends his apologies.

**MS FAY:** No worries at all. Thank you for that. And yes, I would like to take an opportunity to make some opening remarks. I will focus my remarks on the information request, 8.3, but I would like to acknowledge, obviously, Perpetual has made an additional submission.

**MS ABRAMSON:** Yes.

**MS FAY:** And there are a whole range of things that we're supportive of and have views around. But for the benefit of today's conversation I will concentrate my remarks with relation to the information request regarding the concentration of the licensed trustee market, and try to address some of the questions that were raised within the draft report.

So, firstly, I'd probably just like to address the underlying premise of the request for information and specifically that concentration of the LTC market reduces competition and could potentially lead to poor outcomes for the community.

I think it's probably fair to say in 2024 the market for trustee services has potentially never been more abundant. And there's a whole wide range of options and corporate trustee structures that are available to philanthropists and philanthropic families that are looking to establish their foundations and receive trustee support.

LTCs today compete with the appointment of, as trustee, with individuals, public trustees, accountants are very prominent today in the trustee market and other trusts and advisors also who offer those services with regards to their board or advisory services. And that's, of course, not to mention other unlicensed and government entities that exist as well.

We're certainly of the view with regards to trustee options. If an individual or family wishes to appoint a gratuitous trustee they have got the option of engaging with individuals who wish to take on that obligation without a fee. They also have the option of appointing State-owned, non-profit public trustees. And if they wish to appoint a professional trustee who is not their accountant or trusted by – then, of course, they've got the option of appointing a licensed trustee in that manner.

And look this – none of this is new. I think licensed trustees have never held the market share as acting as a trustee for philanthropic foundations in this country. Although they have always played a really important role in growing philanthropy since the late 1800s. And if we look at the market, probably the market growth that we have seen since the introduction of private



ancillary funds it's fair to say that that has continued. LTCs don't occupy the majority of trustee positions with regards to private ancillary funds. However, I do think it's worth noting that they continue to be appointed by families and individuals who are setting up their private ancillary funds despite the abundance of market opportunities to seek alternate trustees in those particular instances.

I would just like to touch on the broader community benefit that we certainly see with regards to the licensed trustee market and that obviously has to do with the benefit of pooling smaller trusts that might find it difficult to attract a trustee. And outside of that pooling those trusts to provide larger grants the community organisations which certainly Perpetual takes that approach those that were not unduly burdening the community sector with regards to seeking applications for small amounts of money with a big focus on reducing red tape for applying organisation and there's clearly a cost-benefit ratio to bare for that for charities.

Obviously, the economies of scale more broadly with regards to reducing replication of tasks that are procurement options and the capacity to provide aggregated insights would market. And then, of course, the ability to invest in the broader development of the philanthropic sector which, I think, both ourselves and Equity Trustee have been pretty consistent around, given the fact that this is part of our business. We need to see a healthy and growing philanthropic sector that has the trust of individuals and communities more broadly.

Before I sort of open up for questions I did want to just touch on the unique role of licensed trustee companies. And, certainly, in my experience over the last decade in working in this space are very particular – I think – instances whereby individuals might choose to appoint a licensed trustee company and decide against appointing a lay trustee, for example.

And in many of these instances it's where surety is kind of really sought with regards to the ongoing professional management of the trust in perpetuity. So families or individuals that are looking at having confidence around, not what this looks like in 10 years' time or 20 years' time with a family member but what it looks like in a hundred years' time with regards to their trusteeship.

We also see quite often that family members have indicated a lack of interest in trusteeship. Now, that might be where they are at in their lives. But, certainly, in many instances we're appointed as an LTC where family members just don't want the succession powers of the founders.

I do want to also note that in many instances and this is particularly important with regards to growing philanthropy in this country, many of the individuals and families that we act as a trustee for have long-term relationships with the licensed trustee company. Many of them over multiple generations and it provides a significant level of surety to those families that their funds and their foundations will be looked after in the same manner that it was looked after during their lifetime.

And the final two points. Complexity with beneficiary relationships. I'm not sure whether this has come up in any of the public forums but, certainly, many of the reasons why individuals might choose to establish a philanthropic foundation relates to the fact that they could choose to give directly to an organisation but have concerns around the ability of that organisation to manage it, or they want to ensure that it's not spent or whittled away in the short term, and a charitable trust provides them with an opportunity to do that. But they need a professional trustee in that instance to manage those relationships.

And a final reason that we do see on occasion here at Perpetual is court appointment. And those court appointments typically will take place because of divorces or where there has been some governance issues with lay trustees and the court believes that professional trustee is the most important approach in an ongoing nature.

So we have made an additional submission, Julie and Krystian, just with regards to many of those items. We have attempted to provide some case studies around how we've seen that play out as well. But we do think across that particular issue of concentration – you know – there's lots to note around the benefits of having a professional trustee but also that we do have an abundant trustee option available.

I am happy to take any questions with regards to portability. I know that's another question for the Commission and any other questions that you might have around the role of a licensed trustee company.

**MS ABRAMSON:** Thanks, Cat. I think, Krystian, you've got some questions to start with?

**MR SEIBERT:** Thanks so much for joining us, Cat, and for the very comprehensive submission and also the case studies which are really helpful. And also prefacing this but I say that there's an information request because we don't have any views on this area.

**MS FAY:** Yes.

**MR SEIBERT:** So we were asked as a part of the terms of reference to have regard to previous inquiries and reviews and (indistinct) them.

**MS FAY:** Noted, yes.

**MR SEIBERT:** And that was (indistinct) review and - - -

**MS FAY:** Yes.

**MR SEIBERT:** - - -there was never a response to it and it raised various sort of issues and made various recommendations so we felt it's appropriate to have a look at that given the terms of reference. I want to ask you – sort of – I'll do that a bit later, just about sort of changes in philanthropic practises based on some of the things that we have been hearing from participants in our hearings just in the more general kind of questions in a moment.

But just on sort of the regulation of licensed trustee companies and you address it very comprehensively in the submission. I suppose my question is that there's the sort of the thrust about the sort of the intentions of the settler are sort of paramount and I agree that in trusts well that is certainly a very – the focus of it. But I note that in the CAMAC review it sort of said that it's obviously very important. But the kind overriding consideration is sort of the benefit to the community from charitable trusts. I think that was sort of on page – yes – six of the CAMAC review and I think that's perhaps what led CAMAC to sort of make some of the recommendations later on. Do you think that they're one and the same? Or that there is perhaps some sort of a tension between those two sort of perspectives?

**MS FAY:** Well, I think when the settlor establishes a charitable trust their intent is for those funds to be used for public benefit and to be managed appropriately around that Krystian. But I

think in terms of some of the concerns that were raised a decade ago with regards to licensed trustee companies, transparency around fees, portability questions and so forth. Really, when we're talking about the intent of the settlor we're talking about it with regards to issues, such as portability and grandfathering of those particular issues.

We can't guess at the mind of the settlor or the founder in those instances, and trust law is pretty settled around that. And I think we create really significant concerns if we say we're willing to go down a track where we'll disregard the interests or what the settlor has put in place through the establishment of the trust, including through the appointment process within their deeds et cetera.

So I think the settlor's view is paramount with regards to the governance and oversight of the trust. But then, of course, it does – it is incumbent on the licensed trustee, or any trustee for that matter to ensure that the intention around public benefit is ultimately met as well. And there are many levels to that, Krystian. And I think – you know – in the decades since the CAMAC review we have probably had the ACNC established, which does address some of the transparency questions. I would say that Equity Trustees, like Perpetual, probably bulk uploads, their annual information statements if there was a view that it would be great to ring-fence the information around what's coming from licensed trustee companies for example. There's already a manner to be able to do that, if people wanted to see clear, at least, in those particular instances.

But with regards to public benefit more generally I would probably – look, I would be disappointed with the suggestion that licensed trustee companies, simply for its structure do not provide the type of benefit that other trustees provide with regards to a public benefit in how they manage their trusts. In fact I'd go as far as - - -

**MR SEIBERT:** They wouldn't say that - - -

**MS FAY:** No, no, no. I know. No, and just to be clear with regards to the public benefit component I think it's really important to kind of understand the investment that we make in ensuring that the approaches that we're taking are best practise. We have a number of approaches at Perpetual that we take to ensure were making decisions in a defensible manner. We're managing conflicts and were trying to reduce any of the costs associated with applying for grants. And then we're going through an appropriate due diligence process to ensure distributing for maximum benefit for the community.

I would say, Krystian, the level of detail that we probably go through isn't matched I would say in a majority of and a majority of other foundations in many instances. Sorry, I think we have a very defensible approach to how we manage those particular public interest requirements.

**MR SEIBERT:** Yes. And it's a fair point and it was noted yesterday too about the transparency with the ACNC. And I think I also noted yesterday in my comments with when Equity Trustees appeared about so that – you know – we're also aware that, you know, there are provisions under Charities Acts and Trusts Act in the various States - - -

**MS FAY:** Yes.

**MR SEIBERT:** - - -around where sort of – you know – there can be sort of some – you know – a Supreme Court can be asked to sort of review something and there can be certain circumstances where a trustee can be changed. But obviously a very high threshold for that in

most cases that it can vary between jurisdictions, and I think – so, yes, we are aware of that. I suppose the only other question I would have is in terms of – there’s the portability question which you’ve addressed, then there’s the question around, sort of, the fees because there was the CAMAC recommendation around fair and reasonable fees.

Like, I mean, I know that fees are regulated under the Corporations Act, and there’s also the point you make, which I’ll get you to expand upon as well, around capital versus income - - -

**MS FAY:** Yes - - -

**MR SEIBERT:** Which we asked Equity Trustees yesterday, but, yes, just your views on that, sort of, the fee issue in general.

**MS ABRAMSON:** And can I just add, Cat, that capital income issues is quite an interesting one - - -

**MS FAY:** Yes - - -

**MS ABRAMSON:** So expanding on that.

**MR SEIBERT:** (Indistinct words), yes.

**MS FAY:** Yes. Look, and Krystian, the fee issue around fair and reasonable, if you spent any time looking at the submission that were made to CAMAC around that, I don’t think there was any alignment with regards to how to measure, and how to ultimately land on a position with regards to the fair and reasonable. Obviously, there is a significant amount of regulatory regulation around how trustees, professional trustees in this instance, can charge, what they can charge for, and how they can document charging around those particular issues. And then, of course, there’s the issue of risk.

When you’re holding assets for the benefit of the community, and you have a higher duty of care as Perpetual does, much higher than the regular prudent person, responsibility as required by common law, we’re holding a higher risk. And so how do you measure risk? And how do you become reimbursed around those risk items? I’m probably not going to give you an ideal and clean-cut response to, ‘Is there a way to deal to that question?’, except to say, you know, I think a lot of work has gone into trying to demonstrate that through the CAMAC process, and I don’t think an audit is an appropriate vehicle for ascertaining that purely for a licensed trustee company.

Fees are charged in many different ways by lay trustees, and by accountants and other trusted advisors, so I think, you know, my view on that is probably an audit would be overreach, and it certainly was, you know, the view of licensed trustee companies at the time. With regards to the capital income issue, I do want to note that, you know, we deal with a lot of beneficiaries who are the beneficiary of capital restricted trusts. And there was certainly – I think in the middle part of the 1900s, certainly a view that you provide maximum benefit to the community by ensuring that the capital exists in perpetuity, and provide the income distribution to your preferred beneficiaries.

What we have is a unique situation where charitable trusts are required to take their fees – trustees are required in charitable trusts to take their fees from income. In some instances, that might be the entirely appropriate course of action, but for trusts where income beneficiaries

exist, I can understand in low-income environments that those beneficiaries at times see the capital growth of the trust happening, but may, due to low residual income, you know, not see that growth matched with regards to the income that they're receiving. The uniqueness with regards to trustee fees and the charitable trust space is that this is not an issue faced by other trust structures or trustees.

And so we think that there's clearly, you know, a really simple way to amend this. The trustee, of course, must take seriously it's view on where it's fees should come from, and I want to reiterate for those that are on the line here, this isn't about changing the fee itself, the amount would stay the same, it's whether or not the fee is taken from the income of the trust, or the capital of the trust. I think the response - - -

**MR SEIBERT:** Just quickly, what if the governing document, like, say, the will or something says that it has to be taken from capital?

**MS FAY:** I think in those instances it would probably be – we'd probably be restricted in those particular instances, or certainly that's something that could be explored, Krystian, but in instances where it's silent on where the fees should be taken from, I think the trustees, particularly professional trustees, should have the option to ensure maximum community benefit by looking at what capital growth might have been in a particular period versus income for the same period. And noting that these changes were made in the early 90s when interest rates were incredibly high so, of course, that was, you know – those changes were made with a view that you have a responsibility to protect the capital, and given the type of income generation that was taking place, it made sense to take fees from there.

A balance needs to be struck, and that's a really important approach to this. You can't erode the capital of the trust that will ultimately lead to poor community outcomes in five, 10, 15 years, but I think licenced trustees, professional trustees, already manage that with regards to other trust structures and should be given the opportunity to do it here as well. And not just licenced trustees, other trustees who are charging their fees and are restricted to taking it from the income.

**MS ABRAMSON:** And, Cat, could I ask you about distribution rates from PuAFs and PAFs, and also - - -

**MS FAY:** Yes - - -

**MS ABRAMSON:** The smoothing provisions, because you've got some interesting views about that. Interesting in a good way.

**MS FAY:** Yes. Look, certainly I – look, I think the data that we've provided you in our submission – certainly, COVID was really interesting in many ways because our clients, many of the families and individuals that we work with, have continued to distribute via their PAFs at a higher rate. And so I – you know, I don't think necessarily that all philanthropists are wedded to the mandatory distribution rate, but it is the right starting point for them considering how much they need to plan to give away in year. But certainly, we see consistently the clients and families that we work with generously giving more than that in the PAF space.

I think, certainly, it's the case also in terms of our endowment clients and families that we work with, and that's our public ancillary fund. We would not be opposed to the alignment of a public ancillary fund distribution rate, and a private ancillary fund distribution rate for philanthropists, but I recognise that our historic public ancillary funds were established in many instances by

charities themselves, and that there could be instances where public ancillary fund trustees might have very different views with regards to the pertinence of change in that. But I think for philanthropists specifically, I think we should be up for the alignment, particularly now that portability is available across those structures so there's no incentive to move to a particular structure where your distribution rate is lower.

And I should say, when we are working with families who are interested in coming to philanthropy, I don't think I've ever had one of them say to me, 'I want to set up an account within a public ancillary fund because the rate is 4 per cent, not 5 per cent'. That's our view with regards to that. I don't think there needs to be a shift around private ancillary funds. I would fear that that may lead to, particularly in this inflationary environment, it may unintentionally lead people to not wish to establish a structure, and we need to be really careful to balance that.

**MS ABRAMSON:** I should acknowledge my presiding Commissioner is back. My moment of great power leaves me now that Alex is back. But I'm going to (indistinct) - - -

**DR ROBSON:** Thank you. Sorry, Cat. Yes.

**MS FAY:** That's okay.

**DR ROBSON:** Family emergency.

**MS FAY:** (Indistinct) delegated.

**DR ROBSON:** Yes.

**MS ABRAMSON:** I'm going to – sorry, Cat.

**MS FAY:** Just the smoothing provision, Julie.

**MS ABRAMSON:** Yes.

**MS FAY:** Just to comment on that, I mean, I have to admit that maybe it's the way that we manage multi-year distributions, but we already feel as though there's ample options around impacting what your mandatory distribution rate is in future years where you have forward commitments. I would be concerned around playing around with mandatory distribution smoothing provisions, because in many instances there's already options that are available to us to seek either a ruling, or to simply make plans for our future distributions and hold over those funds for those years.

I don't – I don't necessarily see the value in making those types of changes given the downside risk of it is potentially, you know, significant volatility in the market with regards to certainty around what distributions are coming from foundations in any particular year. We have ways and means of managing those things, and I think those options are available to all trustees.

**MS ABRAMSON:** I just had one final question, and I know the colleagues wanted to ask you some more questions on the distribution rates. Cat, the trust laws are different in all of the states, so one of the things that people have said to us, you know, it's different laws in different states. It matters when we think about things like the ACNC's powers and the relationship with the state

attorneys. Do you have a view about the fact that the laws are different for charitable trusts in different states just as a general proposition?

**MS FAY:** Just as a general proposition, it probably makes our job much harder, Julie.

**MS ABRAMSON:** Yes.

**MS FAY:** Obviously, we need to be very aware of trust laws with regards to where the trust were domiciled, how those particular state laws relate to charging of fees and everything in between.

**MS ABRAMSON:** Yes.

**MS FAY:** I've not turned my mind though to having a formal view around what could be done with regards to that, except to say, yes, you know, for professional trustees like us it's something that we have to be very, very aware of in the management of our trusts.

**MS ABRAMSON:** Thanks, Cat. My moment of power is gone, Alex, so it's back to you to control questions.

**DR ROBSON:** Thank you. Thanks for joining us, Cat. I just want to follow up on the minimum distribution discussion. And, I mean, really, it's about, you know, a minimum distribution – once the money is in there, you're either bringing it forward or pushing it back.

**MS FAY:** Yes.

**DR ROBSON:** And, you know, obviously – well, depending on their preferences, but some charities would prefer to have it today rather than tomorrow all else being equal, but we're thinking about this, you know, the idea of, you know, you can still have a minimum, but maybe a, sort of, recommended rate which would, sort of, be a soft nudge if you like. You have a minimum which you can't, you know, sort of – that's a bind, you know, sort of a hard rule, but then maybe, you know, we could, sort of, ask charities or other organisations, 'Well, what do you think the distribution rate would be?', and then aggregate it, and then that would be a, sort of – come up with some sort of reference rate.

And so entities then wouldn't, you know, be forced to meet that reference rate, but it would be there as a guide to say, 'Well, this is what the view is out there'. I'm looking to get your reaction.

**MS FAY:** Yes. And, Alex, that's with regards to lifting it from 5 per cent, is it?

**DR ROBSON:** Well, I don't know. I mean, it depends - - -

**MS FAY:** (Indistinct words) encouraging beyond 5 per cent?

**DR ROBSON:** Well, it depends. It depends, like, you know, if the – if – you know, potentially, but I don't know if the reference rate came back, you know, something else, but I mean, that's a relevant question. But, yes, it's just something we've been giving a little thought to.

**MS FAY:** Yes. Yes.

**DR ROBSON:** Yes.

**MS FAY:** Look, I think what we want to avoid is confusion to some extent. You know, I think that's really, really important. You know, I'd love to see the Commission's view more broadly around, you know, how do we increase trust-based philanthropy? How do we encourage more unrestricted giving, for example? Because I think those types of things would be far more impactful than playing around the edges of a mandatory distribution rate if we're talking about increasing the benefit for the community. I think, you know, the provisions around professionalism of the philanthropic network, and if you were looking to provide instruction or encouragement in a certain direction.

I thought one of the really fantastic submissions that you guys received in the original submission period came from an academic in New South Wales, where she suggested you should just force all philanthropists to give unrestricted funding and that would be the best way to potentially benefit the community. And I thought that was very bold and quite interesting but, you know, the principle I think of what she was getting at was quite right. You know, if we're talking about growing giving and growing its impact, I don't think playing around the edges of the mandatory distribution rate gets us to where we want to go. I think it's probably about encouraging better practices if you're – if you're – if you're just nudging around the edges there.

I think confidence with the inflationary environment, you know, we're definitely seeing people asking that question and trying to understand what are the types of returns that I need to get, so it is impacting decision making. I think that needs to be front of mind for the Commissioners with regards to recommendations. I'd encourage probably once it's clear, once there's lots of clarity around what's required, we'd probably want to see the detail of what was being recommended.

**DR ROBSON:** Yes. Okay. Thanks. Krystian?

**MR SEIBERT:** Just on, sort of, the practice of philanthropy, and there's an open question about what the role of Government is in terms of shaping that, but we have had obviously lots of feedback that we then also highlight that in the draft report around, sort of, philanthropy's role, sort of, supporting innovation, and then the benefits of, sort of, general operating support versus project specific funding. It was interesting, we had a participant in Sydney last week from a large charity that basically said that their experience with their funders was that overtime there's been less, like, support for general operating support funding, and also, like, - so it's actually gone down from their experience.

And also that they see it as a bit of a mismatch in terms of a lot of philanthropic supporters, the larger ones, actually want evidence of effectiveness already, like – so that they're not necessarily fulfilling that kind of role of funding innovation. I'd be interested – I've got another question about, sort of, philanthropic strategy, but I'd be interested in your, sort of, views about how the sector has changed or not changed given you've been in it for quite a number of years now and, sort of – yes, some of those trends and developments.

**MS FAY:** Krystian, do you remember the period, you know, probably a decade or so ago where people were deriding this idea of cheque book philanthropy? You've just written – you've written a cheque, and you've handed it over to the charity. And I often say to me – the families that I work with, like, you know, if you're unsure the best thing you can do is cheque book philanthropy, because you're providing unrestricted funds and you're not having any of the bells and whistles around reporting requirements. If you trust the organisation, that's a great way to



give and you shouldn't be concerned about, you know, these ideas of professionalism that sit around it.

I think philanthropy as it has become more professional has, kind of, taken on this isomorphic approach, and that is that we've looked the big foundations and how they undertake due diligence, and how they assess applications, and the type of high touch that they want with regards to the impact that those foundations can demonstrate that they're having through their giving. And it's filtered down into every level of philanthropy now that we – you know, we have to ask for paperwork in order to be sure in the distributions that we're making. I've definitely seen that, you know, and its professionalism perhaps and due diligence, you know, that's dressed up as, you know – that ultimately is perhaps overreach in many instances.

Perpetual, we absolutely have a view. We provide advice to our clients about best practice in philanthropic giving, and in many instances we believe best practice is find a great organisation that aligns with your values, aligns with the mission of your foundation, and let's do the due diligence to make sure that they're a good quality group that can manage a distribution, but let's be as light touch as possibly with regards to how we go about it. And I can tell you something else, that leads to a lot more joy for the philanthropist as well who's not up to their eyeballs in paperwork in many instances, particularly for small grants.

I definitely think we need to strike a balance, and the rise of professional advisors in this space, you know, we've got a responsibility to do philanthropy, and do philanthropy well for the benefit of the community in our approach to giving in those instances. I've definitely seen it, Krystian, and it is disappointing to hear that, you know, charities on the front line are feeling the brunt – the brunt of that. I think it is an issue.

**MR SEIBERT:** Just in terms of, like, what Government can do, or if Government should do something to shape, sort of, this space. We did have some evidence in Perth, sort of, saying that, like, you know, it was actually in relation to the minimum distribution, but it was about, sort of, a broader comment that, sort of, there's nothing in the regulations that need to – that, sort of, require trustee funders, say the trustee of an ancillary fund, to think about, sort of, intergeneration justice questions. And we can have a bit more of a broader discussion around that there's nothing really that requires them to think of what their philanthropic strategy is, and that the PAF guidelines say you need to have an investment strategy, but you don't have to have a philanthropic strategy.

I mean, your philanthropic strategy could be cheque book philanthropy - - -

**MS FAY:** Yes - - -

**MR SEIBERT:** Until 2030 when cheques are no longer accepted as Julie comments on a lot but, you know, there's nothing that prompts in the guidelines that actually prompts a trustee of an ancillary fund, the donor, the family, to think about their strategy. Many do do it anyway, and I'm just, you know – we don't have any views on this, but whether, sort of, something explicit about you should have a philanthropic strategy. You know, what it is is up to you, and it's not that, you know, you don't, you know – if they're going to have someone check it and, you know, you could then in that consider, well, do we provide general operating support? Do we support, sort of, you know, first nations led organisations et cetera? I mean, we don't know, that's one option, but - - -

**MS FAY:** Yes.

**MR SEIBERT:** It has been raised in a couple of other submissions about, you know, reporting on the proportion of grants that are general versus project specific, but obviously that can come with compliance costs as well. We're interested in your views about what lead does Government have, and does Government have a role in this space?

**MS FAY:** Well, I think it's probably education, and I think you're right. The guidelines mean that the governance of a lot of foundations focus on exactly what's said in the guidelines, and we're governing and doing our philanthropy right if we're meeting the obligations of the guidelines that have been set out. Perpetual, as a rule we do have philanthropic strategies for all of our living clients. It's one of the joys of being able to think about your giving, and to track whether it's improving, and whether or not you're enjoying the work that you're doing with organisations.

Would love to see people doing more of that Krystian, but I would say it then comes with, you know, an additional level of probably advisory support which comes back to, you know, for those smaller foundations, if we can find a way of doing it very simply, and using tools that make it relatively easy, I think there might be some benefit in supporting that. While we absolutely believe a professional trustee and a professional advisory organisation is a great way to go, I also understand that there are many other people that are trying to do this as efficiently as they can possibly do it, and it might be an additional burden that therefore goes with that.

Perpetual, I should just say has a philanthropy tool kit that we have put on a commons license online that goes through everything from how do you establish a foundation, through to how do you engage your family in a good conversation, through to how to you acquit funds appropriately and design a strategy. We put that on a commons licence deliberately with a view to ensuring that any other advisor, any other family can take it, use it and do what they will because it will lead to better philanthropy. There are probably some tools that could be put to work that already exist and are out there in terms of education as well. Maybe that's the role, Krystian, I'm not sure.

**MR SEIBERT:** Just very quickly on sub-funds. You can see that we've got a draft proposal just for some additional, sort of, reporting on sub-funds given that there is no publicly available data on the number of them - - -

**MS FAY:** Yes - - -

**MR SEIBERT:** And, you know, the amount of assets held in them.

**MS FAY:** Yes.

**MR SEIBERT:** You're aware, obviously, that in the US there's the debate about donor advice funds et cetera.

**MS FAY:** Yes.

**MR SEIBERT:** What would your views be about, sort of, some of that additional reporting given that there isn't any data available now?

**MS FAY:** Look, once it's easily aggregated and provided, we're supportive. I do take your point and I would note for the Commissioners as well, that that's probably one of the areas of

growth that we've seen with philanthropic vehicles as private ancillary funds feel more heavy at a regulatory touch. A lot of the clients and individuals that we're working with just want the joy of philanthropy bit, the giving the money away, and it's easier to do that through a public ancillary fund in those instances. We're, you know – we already do share those data including with yourself, Krystian, previously, and any other researcher that has sought it, we've provided it at an aggregated level so that it's available publicly.

We would not be opposed to that. Once again, it doesn't lead to significant additional reporting requirement that just adds to the cost of what should be a lighter touch vehicle.

**MR SEIBERT:** Thanks so much, Cat. Very helpful.

**DR ROBSON:** Thank you very much.

**MS ABRAMSON:** Thanks, Cat.

**DR ROBSON:** Yes, that was great.

**MS FAY:** No worries. Thank you for your time and thank you for the work that you've undertaken today.

**MS ABRAMSON:** Thank you.

**DR ROBSON:** Very good. Thanks. I think that's it for participants. I will just call for anyone online if they would like to take the virtual floor, as it were, and give some comments. If you would like to, you can raise your hand in the toolbar on the bottom there. I don't see anyone raising their hand. If not, I think we will formally close these hearings. Thank you again to all participants, and again, the final report will be given to Government in May, and then it's up to Government then to release it within 25 sitting days, and as a final piece of work, I'd love to thank the team for all their hard work, and also the transcribers that we've had in various places around the country. Thank you, everybody. And, yes, that's it.

**MR SEIBERT:** Thanks, team, and thanks, everyone.

**DR ROBSON:** Thank you.

MATTER ADJOURNED [5.25 PM]