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PRODUCTIVITY COMMISSION

PHILANTHROPY INQUIRY

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

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DR A. ROBSON: Okay. Well, we'll get started. So I will make a statement and then we'll introduce you and then we'll get underway. So, good morning and welcome to the public hearings following the release of the Productivity Commission's Inquiry Draft Report. My name is Dr Alex Robson, I am the Deputy Chair Alex Robson of the Productivity Commission and presiding Commissioner on this inquiry.

I am joined by Commissioner Julie Abramson and Associate Commissioner, Krystian Seibert today. Before we begin today's proceedings I'd like to begin by acknowledging the traditional custodians of the lands on which we're living and pay my respects to elders past and present.

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 Australia. 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 money, time and lending a voice.

In addition to supporting provision of goods and services valued by the community, giving – particularly volunteering – can contribute to social capital. The Commission identified practical changes that would promote giving and benefit the Australian community. We are seeking feedback on this process.

The Commission notes, however, that all government support ultimately derives from tax payers and that there is 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 are focused on making recommendations to maximise the welfare of the Australian community as a whole.

The draft report focuses on three main areas which is designed to establish firm foundations for the future of philanthropy, so the benefits of giving can be realised across Australia. The three main areas of reform are as follows. Deductible Gift Recipient – DGR reform – will be focusing 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.

Regulation bolstering the regulatory system by enhancing the ACNC's powers and creating regulatory architecture to improve coordination and information sharing among regulators. And information – improving public information on charities and giving support to 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 has found that the current DGR system lacks a coherent policy underpinning and sought to address this by developing a principles-based framework with DGR eligibility that focuses on charitable activities, rather than entities.

The three principles are as follows. There was a rationale for Australian Government support because the activity has net community-wide benefits and would otherwise be under supplied. There are net benefits from providing Australian Government support for the activity through subsidising philanthropy specifically.

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 then applied these principles to determine which charitable activities would maintain the same DGR status and for which activities there would be a change. Overall, the Commission estimates that between 5,000 to 15,000 more charities would have access to tax deductible donations under the proposed reforms.

About 5,000 charities, namely school building funds and charities that provide religious education in government schools would have DGR status withdrawn.

The initial responses to the draft report have predominantly focused on the reforms to the DGR system. We have received a high volume of feedback centred around entities that will have their DGR status withdrawn. There has also been support for broadening eligibility for DGR status, including those engaged in efficacy and prevention activities.

The Commission's draft recommendations on the school building funds would apply equally to government, non-government, secular and religious education providers. While there are sound reasons for governments to support the provision of school infrastructure, the Commission's preliminary view is that providing tax deductions for donations for school buildings is unlikely to be the best way to direct support to where it's needed most.

Submissions have also focused on our 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 inspirations for donating, as well as undertaking a range of charitable activities. The contribution that such entities make in the community 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 change to these other tax concessions. However, we 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 activities of a charitable nature, such as advancing social and public welfare.

Under our proposed reforms which would expand the scope of DGR these entities could gain DGR status with these other separate activities. There are also charities with the religious details currently endorsed as DGR's such as public benevolent institutions working to address disadvantage, they would continue to be eligible.

We welcome further feedback on proposed reform to the DGR system and these hearings. In particular, we welcome feedback on the principles, how they've been applied and the likely impacts of the proposed reforms 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 have proposed the establishment of a National Charities Regulators Forum, underpinned by an intergovernmental agreement to help build formal regulatory architecture to help the regulators prevent and manage regulatory issues, coordinate joint responses to misconduct concerns and improve information sharing. The proposals 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. We 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 the data that government provides about charities, giving and volunteering. It also recommends that disclosure and reporting of corporate giving and charitable bequests be improved.

During the course of our enquiries we've also heard some Aboriginal and Torres Strait Islander communities are furthering their own or through partnerships with philanthropy. We also heard, however, that the approaches of some philanthropic funders may not align with the aspirations, priorities and needs of some Aboriginal and Torres Strait Islander communities and that their opportunities to enhance access to philanthropic networks.

In response we have 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.

The Commission's draft recommendations would establish firm foundations for the future of philanthropy, so the benefits of giving can continue to be realised across Australia. We're very grateful to all the organisations and people that have taken the time to prepare submissions and to talk to us, and to appear at these hearings.

As of 9 February, we had received over 1200 final submissions and over 1400 brief comments since the draft report. So this is the fourth day of public hearings through this inquiry. We will then be working towards completing the final report due to the 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 the inquiry will be advised of the final reports released by government which may be up to 25 parliamentary sitting days after completion.

So we like to conduct all hearings in a reasonably informal manner and I'd like to remind participants that there are clear structures in our legislation and how these hearings are legally backed, and a full transcript is being taken.

For this reason comments from the floor cannot be taken, but at the end of today's proceedings I'll provide an opportunity for anyone who wishes to do so to make a brief presentation if they wish. The transcript taken today will be made available to participants and will be available on the Commission's website following these hearings. Submissions are also available on the website.

Participants are not required to take an oath but are required under the Productivity Commission Act to be truthful in their remarks. Participants are welcome to comment on the issues raised in their own submission or other submissions as well. I'd also ask participants to ensure that their remarks are not defamatory of other parties.

Participants are invited to make some opening remarks of no more than five minutes. If you can keep your opening remarks brief, that will allow us the opportunity to discuss matters in participant's submissions in greater detail.

So I'd now like to welcome participants from Volunteering WA. So if you could please state your name and organisation for the record. If you'd like to make an opening statement, we'd like to hear that and then we'll get into some questions. Welcome.

MS T. WILLIAMS: Okay. Thank you for having us here today. Good morning, my name is Tina Williams. I'm the CEO of Volunteering WA. I'd like to start by acknowledging the Noongar people as the original custodians of the land and pay my respects to elders past and present. (Language other than English spoken).

Volunteering WA proudly supports 800 member organisations and represents 1.5 million volunteers. As a peak body for volunteering we champion sector and work in close partnership with community, corporate, educational and government organisations to provide leadership, advancement and promotion of volunteering in Western Australia.

Our purpose is empowering people and communities to enrich WA, and I'd like to thank the Commissioners for coming to WA and giving Volunteering WA and other representatives the opportunity to listen first-hand to their experiences and feedback on the impact that giving has in our state.

This submission responds to the draft report, Future Foundations for Giving, released by the Productivity Commission on 30 November 2023. As part of the philanthropy inquiry, volunteering notes and supports the overall objectives of the inquiry.

In May 2023, we provided a formal submission to the commission on the inquiry, which included an overview of the current state of volunteering in Western Australia and our role as peak body for volunteering in WA.

In September 2023, Volunteering WA co-hosted a round table in Perth with the commission with leaders from volunteering organisations to discuss how to recover and grow volunteering participation across Australia. We thank the commission for the investment in their time, interest and knowledge in the important and pressing challenge of helping to shape the future of volunteering in this country.

This submission focussed on major recommendations in the report which pertained to volunteering. Overall comments – Volunteering WA welcomes the reports acknowledgement of your distinction of volunteering from financial philanthropy. The considerable time given by volunteers in all sectors of Australian society, to value a volunteer into the economy and its contribution to social capital.

Draft recommendation 7.5 - Explicitly consider the effects on volunteers when designing policies and programs. To support volunteering, Australian state, territory and local governments should give greater consideration to how changes to policies and programs would affect volunteers.

This includes adopting measures that may mitigate any adverse effects on volunteer participation and identifying opportunities for volunteers as part of the policy or program design. Excerpt from report page 44 – Volunteering WA fully supports this recommendation and rationale provided.

Draft recommendation 9.5 – Improve the usefulness of public information sources on volunteering. The Australian Bureau of Statistics (ABS) should improve the usefulness of public information sources on volunteering by amending the questions on volunteering in the census to capture whether respondents engaged in informal volunteering in addition to whether they engaged into formal volunteering with an organisation.

The amount of time the respondent engaged in formal or informal volunteering, for example hours each week. Following engagement with communities the ABS should develop methodologies that enable better measurement of volunteering by Aboriginal and Torres Strait Islander communities and culturally and linguistically diverse communities. Excerpt from report, p49.

Volunteering WA agrees with the need for the Australian government to urgently address and improve data gathering and publication of information pertaining to volunteering. However we have significant reservations regarding the use of the census as a vehicle for this due to the infrequency of reporting, ABS' own advice to not rely on the census for volunteering data due to the persistent under reporting, due to the size of the survey. Other than local area trends over time.

The limited scope of data proposed and possible through this vehicle, which is at odds with the ABS recommendations for data gathering on volunteering published in 2018 after extensive consultation. Volunteering WA recently commissioned work to understand, among other issues the size of the volunteer workforce in WA. The findings include the replacement value of volunteer labour in Western Australia is 16.5 billion per annum.

The size of the volunteering sector is more than twice that of the entire public sector in WA and over half the size of the private sector. The ABS has published the labour force survey, LFS, since 1960. It is conducted monthly and includes approximately 24,000 dwellings, resulting in a sample of approximately 50,000 people.

The scope includes the public and private sector employment in civilian settings. Given the size of the volunteer workforce, six-year intervals of incomplete data is highly inadequate for government, the not-for-profit sector and volunteering sectors.

We believe that there needs to be a single purpose survey with data validity at national and state territory resolution at a minimum collected more frequently which meets the scope recommended by the ABS in 2018.

In addition there is a need to collect information on volunteering organisations and volunteer management to inform policy direction and sector practice. In closing, Volunteering WA much appreciates the opportunity to provide this submission for consideration. We look forward to the publication of the final report for the inquiry from the commission, and thank you again for your contribution to this vital policy area.

MR ROBSON: Thank you, very good. Krystian, did you want to say anything?

MR K. SEIBERT: Thanks so much, Tina, and thanks again for convening that round table in September. It was really helpful and insightful for the commission and thank you for your submissions as well including in response to the draft report.

The data that you shared from the research into the size and contribution of volunteering in Western Australia is really fascinating and if there's anything that you can expand upon in terms of that research given that it hasn't been released yet, that would be really interesting.

I wanted to ask specifically, given the size of the volunteer workforce, I think to quote from your submission, you have a replacement value of volunteer labour in WA as 16.5 billion per annum and it's more than twice the size than the entire public sector in WA. How do governments, including the state government, but also the federal government engage with Volunteering WA, but volunteering organisations in general in terms of supporting their work. Could you sort of unpack that a little bit for us? The sort of the type, the nature of that engagement.

MS WILLIAMS: In WA we have the Volunteer Community Reference Group which is a group where we are the voice of the sector, and we meet with the Minister on a quarterly basis in that group. So that's one level of engagement, but we also are funded by the state government as the peak body for volunteering and under that funding, we provide numerous services and support. It's all volunteering involved in organisations. But State Government and sales also provide a very small amount of funding for volunteer grants for organisations which are given out in December or around December for International Volunteer Day.

We were also supported through (Indistinct words) where we give grants as well, to organisations but the level of engagement with Government, we meet frequently with our State Government and obviously feed into policy at an Australia-wide level and through Volunteer Australia. And going back to the report that we mentioned in the new data is about to be released. So that report now has been finalised.

We will be publishing that report in early March with our new list of the volunteering (indistinct) and in that report there are figures which do show really good participation rates in Western Australia. But also signs that we need to really ensure that we do things quite differently if we want volunteering to continue and thrive.

MR SEIBERT: What are some of those things that without sort of pre-empting a release of it, but in terms of those – doing things differently, those things that you sort of expand upon in that research. What are some of those things?

MS WILLIAMS: I think it's really responding to the way that people want to volunteer. Because we have focussed very much previously on what we call traditional formal volunteering which is when you volunteer through an organisation. Informal volunteering is when you don't volunteer through an organisation. With the rise of digitalisation and social media, we have seen a lot more of that type of volunteering now where people just basically gather themselves you know, in response to, you know, these different activities you know, to support people in their local communities or different causes or even, you know, in disasters, and emergencies, we have seen that coming through quite strongly.

So it's really how then do we look at volunteering and help support that in a way that is conducive to enable it to happen rather than creating more barriers to volunteering. And one of the activities that we're really passionate about is reducing those barriers, obviously still providing the necessary checks and balances, but doing it in a more streamlined way. So people when they come in and put their hand up to volunteer, they can actually volunteer and then they're not having to go through reams of paperwork and training which is sometimes unnecessary. And we do acknowledge that sometimes it is absolutely necessary. That it is trying to make that process a lot simpler.

MR SEIBERT: And just on this, I get the impression that there's sort of that – the work with Government to support sort of the capacity of organisation as to support volunteering and grow the culture of volunteering. Just do you find governments engage around when there's a policy change, and this goes to recommendation 7.5. When there's a policy change to say, in aged care or disability or in some area where it may not be sort of focussed on volunteering, specifically, but to be engaged with you, to understand how it might impact volunteering, volunteer say versus, paid employees? Well, what are the unique sort of – the context of volunteers, how might have impacted them. Do they engage at that kind of level?

MS WILLIAMS: No, they haven't done previously, but we're starting to sort of see coming through now is recommendations, you know, certainly when we put submissions in for various enquiries or you know, policy, government policy changes. We highlight that as something that's absolutely necessary. What we have found is that often policies are written for paid work force and the impact on volunteer work force isn't actually you know, covered to any sort of degree or depth.

And we say that happen with people with NDIS where volunteers have just dropped off because there's no way for volunteer participation anymore because obviously the funding goes through individuals.

MR SEIBERT: So is that something where you're looking to see more engagement? Sort of that broader understanding of the impacts of volunteering across those different policy areas?

MS WILLIAMS: Yes, for sure. And I think it just comes back to the acknowledgement that volunteering, although, you know, we say it's time given freely without financial gain, is actually not free. It's actually not free to the volunteer and it's not free to the volunteer involved in the organisation either. That, you know, to actually utilise volunteering in a safe and efficient manner does cost money and it costs money to provide you know, the safety and the boundaries, the training, all the requirements that needed you know, to run an effective program that addresses better practice and volunteer management as well.

MR SEIBERT: And just lastly on that. What are some of the things you think government could do in this context to more proactively support or understand the perspectives of – in terms of the impacts on volunteering the policy changes?

MS WILLIAMS: I think really just even you know, to get that data right, will make a big difference because that will give us a much clearer picture of what actually is happening in volunteering. Where it happens, how it happens, you know, what are the barriers, what do we need to overcome to ensure that it continues to play a part in Australian communities.

But I think also, you know, as we have mentioned, at that policy level, to always consider the unpaid workforce and the implications on them with policy decisions, because there's lots of unintended consequences to policy changes, when you are particularly looking at workforces. I mean, I always like to quote that you know, volunteering represents nearly 70 per cent of the not for profit work force and so when you make changes, you know, impacts the not for profit sector, you make significant changes to the way people can volunteer and those organisations can engage with volunteers as well. And so really, it's just about raising the awareness of that and making sure that, you know, we're part of that conversation with government.

MR SEIBERT: You know, one thing that we have mentioned in the draft report is sort of explicitly considering the impacts of volunteering through the regulatory impact assessment process that government does when they're sort of looking at those sorts of things. So, yes.

MS WILLIAMS: Yes.

MR SEIBERT: Thank you.

MR ROBSON: Thank you.

MS ABRAMSON: Yes, I wanted to – thank you, Tina. I wanted to ask you about the statistical side of it which is slightly ironic because it's not actually my area, but it's very interesting that you mentioned that you would like the survey or at least the ABS to be doing it under monthly labour force survey. Now, I assume part of that is because you have a view about the volunteer workforce. That it's a workforce. So, I'd like to understand that a bit more and also the ABS used to do the general social survey.

MS WILLIAMS: Yes.

MS ABRAMSON: And any comments you have on that. So I can understand why you might be wanting to send a signal with the labour force. But just interested in that. And then if I may, the third part of that question is why you think that the census which is (indistinct) duration data overall is not as helpful as the sort of things we have been talking about.

MS WILLIAMS: Yes. Okay. I will start with the last.

MS ABRAMSON: Yes.

MS WILLIAMS: So the census, the ABS agreed that the questions within the census didn't really support the true measurement of volunteering. There's a bit of confusion there. So the questions really needed to change in order to capture the correct data or the correct information. I think it often confuses some people the way that questions were posed. So it is really about refreshing the questions within that.

Going back to the labour force survey, purely because of the numbers, you know, so if we could get responses from 50,000 people about their volunteering behaviours, you know, that would capture both informal and formal volunteering and give us a real sense of you know, how that happens, you know, across Australia. So I think it's more about okay, can we use, if we're not going to create a single purpose and survey, is there something else that we can piggy back on that can give us some really rich data and that was one of the things that you know was proposed.

MS ABRAMSON: Are you worried, Tina, though about the compliance burden of that because it's a monthly survey and we had problems getting data out of people at the best of times.

MS WILLIAMS: I have got no idea, sorry, about if people respond you know, to the survey. I am assuming that they would. As a regular sort of survey process, but no, I am sorry, no, I don't.

MS ABRAMSON: That's all right. Why do you prefer that labour market survey over the general social survey.

MS WILLIAMS: I believe that the general social survey certainly from Western Australia didn't give us the depth of information that we need. That's why. So we needed to have more information and we just don't have the data.

MS ABRAMSON: Do you think that's because of the questions that were asked? What was the issue with it? Because normally leaving aside the reporting, it's every four years.

MS WILLIAMS: Yes.

MS ABRAMSON: And it hasn't been done lately, but it does include specific questions on informal volunteering. So it's probably one of the few survey tools we have where they have actually asked about that.

MS WILLIAMS: Yes. I think – I would like to take that on notice.

MS ABRAMSON: Of course.

MS WILLIAMS: And get some more information about that. But I believe it is because we don't get the data at state level that we need to be able to actually use it in the way that it's useful in a policy setting. Or even, you know, for us to share that with our members.

MS ABRAMSON: Thank you. And any views you have on compliance costs would be helpful as well. Because the surveys do (indistinct words) compliance costs and I can just hear the volunteer coordinator saying, 'You asked me to do that every month' so anyway, I will leave that with you. Thank you, Tina.

MS WILLIAMS: I'd be more than happy to get back to you.

MS ABRAMSON: Thank you.

MS WILLIAMS: Thank you very much.

MR ROBSON: Thanks, Tina. So the government's got this (indistinct words) giving by 2030. I want to ask your opinion on specifically what you have seen in volunteering patterns, trends over time and whether you think you know, for example, doubling volunteering by 2030 is feasible. Whether it's the number of people or you know, by hour or how would you even think about that. And does that seem like a goal that could be achieved on current policy settings or what have you seen over time and what do you think the likelihood is of something like doubling volunteering in WA and across the organisations?

MS WILLIAMS: Yes, I mean, that would be amazing if that could happen, but I think you know, there are so many different variables at play, that would affect that and also not just – I suppose I talk about you know, sort of environmental factors as well, as you know, cost of living, you know, single person households, you know, there's so many different implications.

I don't believe that it can happen if the environment stays the way it is right now. Absolutely not. I think we will go backwards. The way that we're going to support volunteering is you know, obviously if there is an investment in volunteering and a concerted effort to change the way that the system operates right now. But I feel, you know, I don't think that those goals are possible. Both in giving financially and also in volunteering. But it's interesting, I always say you know, volunteers are the best givers in terms of donations as well.

And we also know that you know, word of mouth means that people volunteer more of them. And so I think there is some really sort of key things that we can do to sort of reverse that and really work towards those goals and – but it will take more investment and it will take a lot of effort with everyone pushing the same wheelbarrow as well.

MR ROBSON: And also in the sense of you know, nationally, we have seen decline in volunteering and (indistinct words) is that the same in WA? You know, the sort of longer term and then also, why do you think you know, the data, that trend is – is (indistinct words) what's driving that, because people don't have the time that they used to have or - - -

MS WILLIAMS: No, I think we live in a different society and certainly I think we can all sort of you know, acknowledge that since COVID, you know, there has been quite significant changes in the way that we work, in the way that people want to volunteer. I mean, if you look at this campus, you know, most students now will be remote. They won't even be here. You know, where as before, this was probably one of the most active volunteering campuses. I am not saying that they don't volunteer still, but they do it differently. They do it online or they will do it – you know, it's not here. It's not within the home or as much as what it once was.

So I think really from – I think it's up to us to sort of present the volunteering in a way that people want to volunteer and make it more appealing which does, you know, sort of turning old traditional institutionalised types of volunteering on its head. Because that is definitely declining. Those organisations are seeing a decline probably quicker than others. And really finding it hard.

MR ROBSON: And you mentioned online volunteering. Tell us a bit more about that. How does that work?

MS WILLIAMS: This school has many ways to volunteer online, I mean we all do so much now, don't we. We operate a recruitment system that services the whole of Australia and within that – there's usually about 13,000 roles already, you know, being advertised. A little bit like a job's board like seat. This one is for volunteer positions. And within that, you can search any

odd time for online vacancies and come up with hundreds of different positions that people can do online.

And I mean, I always feel like it's fantastic because it means that people, you know, disabilities can all go volunteer from their home if they're not able to get out and actually physically go somewhere. So it is more inclusive in that regard. But it just – it's just one. It's just other ways that we can engage, you know, with volunteers. And we talk about you know, that there's (indistinct) volunteering where you have short sharp opportunities to volunteer or spontaneous volunteering where people turn up after a disaster and want to help out. You know, so there's lots of different types of volunteering and it's really looking at ways that we can support that and not create more barriers for people to just volunteer the way they want to.

MR ROBSON: So you think that part of that answer is you know, harnessing these new trends and this new way of doing things?

MS WILLIAMS: Absolutely.

MR ROBSON: And it hasn't been done before because people are changing the way that they want to volunteer.

MS WILLIAMS: Yes. And I think, you know, when you do – when we do see examples of the way things work, it's really about championing that, so that other people can sort of share that knowledge and also that practice to get more volunteers to do their roles as well.

MR ROBSON: Okay. Thank you. Krystian, did you have anything?

MR SEIBERT: I just wanted to ask about corporate volunteering. And what your thoughts are about the role of corporate volunteering opportunities, challenges, because we do have a draft recommendation around corporate (indistinct words) which would include a list of companies reporting on the volunteering contributions as well as contributions of money to DGR's, but any thoughts about yes, corporate volunteering? About sort of increasing transparency around those contributions by larger listed companies as well?

MS WILLIAMS: Look, I think the corporate volunteering, we're probably the leading state and you know, we're very fortunate to have some very good corporate partners, long-standing partners and we are very open about reporting about how they volunteer, what that contribution looks like, what that value is, what the hours that their corporate volunteers volunteer as well on an annual basis and I feel that the information that we provide our partners with, they then use that information in their own sort of reporting and so in a sense it's very useful for that and that's on a more practical level.

I do feel – I feel that I can't speak only for the people that we work with really, how that – how visible that is and how that comes through in their reporting. But what I might do is just flip the question over to Traci Gamblin who is a – my Deputy CEO. Traci, do you want to?

MR ROBSON: Yes, yes.

MS T. GAMBLIN: Here.

MS WILLIAMS: She runs our corporate volunteering program - - -

MS ABRAMSON: And Traci, we will just get you to announce your name and your organisation for the purposes of the transcript.

MS GAMBLIN: Sure. Traci Gamblin from Volunteering WA. So just adding on to what Tina spoke about, I think what I can say is that we support the benefits that corporate volunteering provide. So to the volunteering involving organisations and they report that back to us all the time, it helps build their capacity, helps, you know, complete projects they would never be able to you know, complete.

But also to the employees who take part. And there was just a study I think it was from Oxford University that looked at well-being – all the well-being things that accompanies – that companies provide their employees and found that volunteering was really the only positive program there. So, and we see that in spades. So every corporate volunteer that we send out and we do facilitate those activities, they report you know, increased community awareness increased skills, and most importantly, for us, they want to volunteer again.

And that is a huge important thing that we see. We want more people to be exposed to volunteering, corporate volunteering is one of those. So it would be, you know, as great as school - volunteering as part of your school. So it's an introduction to volunteering. Some of it - sometimes, it's the first time they've ever been out at a community organisation.

Besides the other things of feeling better about work, they have increased productivity as well. That is recorded in our State of Volunteering report, you'll see, in March. So all those benefits are what we see, and anything that can promote corporate volunteering, we are supportive of.

MR ROBSON: All right. Well, thank you. A bit of a change of tack just in terms of topics: do you have any views on sort of the progress with harmonisation and simplification of background checks? It was an issue, sort of, that was discussed at our round table in September. We do discuss it in the draft report, but there is, I understand, a process underway around, sort of, some of those Working with Children Checks being harmonised, et cetera, sort of. Do you have any views about how that's going and any opportunities, challenges?

MS WILLIAMS: Slowly.

MR ROBSON: Yeah.

MS WILLIAMS: It's going slowly. We have a reduced barriers campaign that we've been running now for - I think it's years. Is it four years? I was going to say three - at least three - so four years, which really presented to State Government the opportunity to remove some of the costs involved in some of those checks and streamline them as well. So we're still working through that and still banging on that drum. We hope that we will make more traction. We've just had a new minister, and he seems to be very engaged, so we're hoping that, you know, we'll make some headway that way.

MR ROBSON: What are the actual blockages in that space from your perspective and - - -

MR SEIBERT: Why is it so slow?

MR ROBSON: Yeah, why is it so slow, even though there's such agreement about the need for it?

MR SEIBERT: Yeah.

MS WILLIAMS: I think probably because it's a budgeting issue for government. Although they do provide a discount, you know, for some of those checks, it's still a charge, so it's a process situation as opposed to anything else. I mean, really, it's just trying to bring us in line with the other states and territories.

MR ROBSON: And what are the actual impacts of the compliance burdens that can be associated with these different checks? There's obviously a rationale for the need for these sorts of checks, but when you've got - say if we put ourselves in the shoes of a volunteer, what are their experiences with this? Why does it impact their decision-making, et cetera?

MS WILLIAMS: Well, I think if you think about, for example, if you wanted to volunteer for volunteering involved in an organisation that - where you were working with somebody in aged care, for example, then you would need the three checks.

MR ROBSON: What are those three checks?

MS WILLIAMS: So you would need - you know, you might need an NDIS. You might need Working with Children, because we don't have the Working with Vulnerable People here, and you'll need a National Police Clearance. And then perhaps you wanted to go and work with another organisation - same kind of volunteering, but different organisation. You would actually need to get some of those checks done again. So one of the things that we would like to do is to just have one check and that the volunteer then retains those checks.

MR ROBSON: Portable, yeah. Yeah.

MS WILLIAMS: Like, it makes it more portable, yeah. We have a system now that we built that can actually do that and can really, sort of, start to work towards that whole volunteer passport concept, which is what we've been wanting to do for a very long time. So - - -

MS ABRAMSON: Tina, did you put the volunteer passport idea in your submission? It's not in the most recent submission.

MS WILLIAMS: No, it's not. What is in there, though, is a volunteer system. So we're building a system that can utilise and can actually operate a passport scenario. So the passport itself is in - it is in Volunteering Australia's pre-election - - -

MS ABRAMSON: Okay. Yep.

MS WILLIAMS: Sorry, pre-budget submission, yes.

MS ABRAMSON: I had a couple of - thank you for that. When is the State of Volunteering report out? I think Traci - - -

MS WILLIAMS: Early March.

MS ABRAMSON: End of March?

MS WILLIAMS: Early. Early March.

MS ABRAMSON: Early March.

MS WILLIAMS: We have it now. Is it 3rd, the launch?

MS GAMBLIN: It's 5th.

MS WILLIAMS: 5th.

MS ABRAMSON: We'd be very happy to get a copy when you launch it.

MS WILLIAMS: Yes.

MS ABRAMSON: Thank you for that.

MS WILLIAMS: We can send it to you, for sure.

MS GAMBLIN: Definitely.

MS ABRAMSON: That would be great. The other thing I wanted to ask - and this is on notice as well, and I'm indebted to my team, to be honest. Tina, apparently, in your earlier submission, you did mention the ABS Non-Profit Institutions Satellite Accounts survey, which was last done in - it's all right, you can take all of this on notice, Tina - in 2015, but clearly, that had some information in it that you thought was of value, so when you respond to us on those other issues - - -

MS WILLIAMS: Yep.

MS ABRAMSON: And, by the way, a letter's fine. It doesn't need to be anything formal.

MS WILLIAMS: Okay.

MS ABRAMSON: Perhaps you could say, 'Well, this is the information in that survey that we were really interested in.'

MS WILLIAMS: Yeah.

MS ABRAMSON: So I'm indebted to Federica for this.

MS WILLIAMS: Okay.

MS ABRAMSON: So it's the Non-Profit Institution Satellite Accounts, which was last done in 2015, and it was in your initial submission. Thank you.

MS WILLIAMS: Okay.

MR ROBSON: And, more generally, I mean, what are the kinds of things you would like to see in data that you think would be useful? So would it be the number of hours that people have volunteered? Would it be, sort of, you know, the broad sector where they've done it? What else do you think should go in there? What's the most useful information for you just more generally?

MS WILLIAMS: I think one of the issues for us is that we actually have that information now.

MR ROBSON: Yeah.

MS WILLIAMS: So we know that people volunteer over, you know, nearly 400 million hours a year.

MR ROBSON: Yeah.

MS WILLIAMS: Sorry, that is a year, isn't it? Which is actually more than the previous - since the previous report that was 2015.

MR ROBSON: Right.

MS WILLIAMS: So that we know that there is an increase in hours, but that actually flows with population.

MR ROBSON: Yeah.

MS WILLIAMS: And the way - we also know that the way people volunteer that they're not volunteering for as many hours individually as what they once were.

MR ROBSON: Yep.

MS WILLIAMS: So I think, really, it's acknowledging the way that volunteering is changing and being able, then, to support volunteering involved in organisations to adapt to that so that they can design their programs to make them successful, but also that they do follow best practice where possible and to provide them with the training, the resources, and the support that they need, you know, to do that.

MR ROBSON: So, on the one hand, you know, the idea of collecting it in the labour force survey would be - well, that's from volunteers or a non-volunteers perspective so we could work out then - - -

MS WILLIAMS: Yeah.

MR ROBSON: - - - you know, who's volunteering and who's not and break them down across all the different sort of characteristics of people. But then you - I think you also said that there should be specific data - I think this is what you were getting to just then - gathered from volunteering organisations as to spread best practice and what works and what doesn't.

MS WILLIAMS: Absolutely.

MR ROBSON: And I think that's what Julie was talking about, the compliance burden.

MS WILLIAMS: Yes. Yeah.

MR ROBSON: You know, volunteering, everyone on a smell of an oily rag. and so anytime you ask for more information, somebody's - yeah, you're asking for somebody's time.

MS WILLIAMS: Yeah.

MR ROBSON: And the cost of that is that they're not doing this other thing.

MS WILLIAMS: Yes.

MR ROBSON: So we'd be interested in perspectives on that. And that might be through a different process, because, you know, the labour force survey is monthly, and it's really - the purpose of it is really for governments to think about those very short-term fluctuations in unemployment and so on.

And so then that feeds into interest rate decisions by the Reserve Bank and fiscal policy and all those sorts of things, whereas this is, I would've thought, a more longer-term - like, maybe once a year, once every two years - and then the best practice story maybe even less frequently, once every couple of years, because that - you know, not sure we need to collect that monthly. But I'm interested in your thoughts on that.

MS WILLIAMS: Yeah. Yeah. I think, for us, it's also looking at government policy, but acknowledging that, you know, when people volunteer, they need that exposure at a young age, and then they will continue to volunteer. And there's a massive, I suppose, gap now within our education system where volunteering is certainly part of the private school agenda, but it's certainly not, you know, public.

And there's no sort of support or funding there, and yet we know that when people volunteer, they're more connected in their communities. They're certainly happier from a young age as well. It just gives people or young people, you know, the opportunity for some really good pathways into employment and experiences in a workplace that otherwise they wouldn't have. And so I think it's really about looking at those opportunities, too.

MR SEIBERT: So you're saying that, sort of, non-government schools sort of incorporate, sort of, education or experience in the context of volunteering to shape those behaviours, but you don't see that in the same way in the government schools; is that - - -

MS WILLIAMS: Yep.

MR SEIBERT: Yeah.

MS WILLIAMS: Yep. They have - usually, the private schools have, like, a program where they do community service, but that doesn't - yeah, it doesn't translate into public.

MR SEIBERT: Just going back to sort of - we talked a bit about aged care and disability care. Are there any sort of specific volunteering challenges in the care sector that you see? Yeah, unpack that a little bit?

MS WILLIAMS: I think a bit, yeah. It goes back to those checks, but then it also goes back to the compliance, you know. So often there are government funded programs that are operated by those wanting to involve organisations that, for example, it's changed names now but it used to be the Community Visitor Scheme. I'll give that was - one as an example, that there's usually around a day and a half of training, you know. So if you think about the contribution, the commitment that volunteers would have to make just to sort of become - go through all those checks but also all that training as well, you know, before they can actually go and volunteer.

So there's a massive drop off rate. You know, when people realise what they actually are signing up to do and how much time it's going to take before they can actually go and do what they want to do with volunteering. There's a huge drop off rate.

MR ROBSON: So there's a day and a half of training for volunteers to go and keep elderly people company. Sort of provide - - -

MS WILLIAMS: Compliance training, yes. And that just really – and it's necessary. The training's definitely necessary in those settings, but it's, I suppose, how it's delivered and if it can be delivered in a more streamlined and easier way.

MS ABRAMSON: You would think, too, that we've spoken about this before and the issue with the NDIS and the relationship between the aged care visiting, but also this idea of the passport's really interesting because you can imagine that it would have sub-component parts. So if you're working in – you'd get a baseline of all of these things, but if you're working in aged care, you do X, if you're working in childcare you do Y. So you kind of would build it like that.

MS WILLIAMS: And if it was recognised. I mean, we've talked about a trusted partnership sort of scenario where, say, you've got, like, five large organisations, and if they know that a volunteer has volunteered in one of those, then it's just a case of knowing that they will have gone through all of those checks, they will have signed off on that training, and so there's no need to do that again. But I haven't seen it operating in a really, you know, for a very long time. But it is one way, I suppose, that we could start looking at actually sharing that.

MS ABRAMSON: Well, you have to think through – so one of the problems would become over time to you, that it becomes a tick box, and no one wants a tick box because that's where the people fall through the cracks because, well, volunteer organisation A said you were good to go and then it turns out that actually it wasn't so. But that's not for us to decide, but that's something that we would think about, which is the integrity risk. How do you manage that.

MS WILLIAMS: Yes – yes. I mean, the compliance is – is really happening, you know.

MS ABRAMSON: Yes.

MS WILLIAMS: Particularly for those types of roles, and it should be too, at any extent. But I feel that it could be simpler.

MS ABRAMSON: It shouldn't be multiple things, though. Like if you – I do know, personally, because I've had to do it, but you do a working with children's check for one organisation, you go to the other organisation and no, we need to do it again. So subject to integrity controls around it, like, that is that, kind of, the double handling and you've got to pay for it and it's also causing a resource constraint the other end for the police who are providing the information.

MS WILLIAMS: Yes. And the volunteer time as well. You know, actually applying for those things.

MR SEIBERT: Thank you for all your – your generosity with perspectives. One more question about deductible gift recipient system reform, because we did analysis which show that a lot of volunteer sole – organisations solely run by volunteers at the moment can miss out on DGR status, and that the proposals in our draft report would expand it to potentially 6,000 charities wholly dependent on volunteers. But do the organisations that you work with and your members

and others sort of have any perspectives/experiences with DGR? The DGR system, the ability to get it to not get it, that sort of thing?

MS WILLIAMS: I personally haven't dealt with any of the – could be that specific about DGR status. I would say that absolutely if I was to ask the question, then I'm sure you would get many responses. But, yes. I don't know. Traci, do you have any - - -

MS GAMBLIN: Not in particular. I mean, I know that they do, you know, work really hard to try and, you know, incorporate themselves and go through that process to be able to get donations. I know that. And particularly those who are all volunteer run do find it a challenging process to go through, but not specifically the DGR status side of it.

MS ABRAMSON: Yes.

MS WILLIAMS: Yes. I think the only thing that I've experienced is when it's come to funding. You know, a grant or something like that that they're all specifying that your organisation has this type – the status and they do it that way. Otherwise, (indistinct).

MR ROBSON: But I think, I mean, we've had other evidence that, you know, volunteer organisations it's not just the people, there's the money and other things that go with it. I mean, you can have all the people in the world at your disposal, but if you don't have funds to train or other to run it and organise them, then it's not going to – it's going to be very difficult. So I guess that's where Krystian's coming from in the sense that, you know, there's this volunteering organisation against people, but also money and an extent to which – I mean, it'll differ by organisation, but the more money they get to go with the people that's – that's helpful.

MS WILLIAMS: Yes.

MS GAMBLIN: Yes.

MS WILLIAMS: And I think that just goes back to, you know, what we were saying before. That, you know, volunteering's free. It takes good volunteer management to deliver, you know, those services and support that the organisations actually, you know - - -

MR ROBSON: And just – sorry.

MS GAMBLIN: No, I was going to add – and you'll see in our State of Volunteering report that I wish was published so we could show it to you now, but we do differentiate between organisations that are managed by – their volunteer management program is run all by volunteers or they have paid volunteer managers, and I think you might find some interesting things in there.

MS WILLIAMS: Yes.

MS GAMBLIN: And also the financial burden that does fall often times on volunteers and on the volunteer manager that may not be reimbursed by anyone. So that – that does come through in the report.

MS WILLIAMS: Yes.

MR SEIBERT: In terms of volunteer management, whether it's from, sort of philanthropic organisations like foundations or corporate or partners, is there much support for volunteer management from them as opposed to, say, government funding? Is it something where philanthropy more broadly have an interest in supporting the infrastructure?

MS WILLIAMS: I actually think a lot of the time, from my experience over many years working in fundraising and not for profit organisations, people don't like to give towards administration and management as part of their donation. They like to see it all going to service delivery, and we see that time and time and time again, you know. It takes a lot of convincing to say to a donor that, you know, you're obviously investing in an organisation in this structure – management structure is a good thing, because then you know that the services are going to be delivered appropriately and efficiently, professionally.

So, yes. It is a battle to, I think, cordon an event, you know, within those organisations when you look at volunteer management more generally. It's only the bigger volunteer involvement organisations that actually have a volunteer manager - a paid volunteer manager.

You know, sometimes they might be just coupled in with marketing or an events person or, you know, it's just an add-on sort of position, and that's one of the things that, you know, as a peak body, we're really passionate about that – that, you know, people actually train appropriately. And, you know, managing hundreds of volunteers is a huge undertaking and you know that they need to be qualified and appropriately trained to do that.

MR ROBSON: Is that what the aged care volunteer visitor scheme funding is for? Is that for the organisations to manage those volunteer programs and place the volunteers and that sort of thing?

MS WILLIAMS: Yes. Yes. Exactly.

MR SEIBERT: Traci, you mentioned that there's sort of out of pocket costs for volunteers. One of the proposals around allowing individuals to get a tax deduction or – and we addressed that in the report and we think there'd be, you know, some pretty serious compliance costs and integrity risks associated with it. But one of the themes that we've come across in the report we thought about is that, well, a lot of things that government can do philanthropy itself can replicate. So, you know, what would stop a philanthropist coming to a volunteer organisation and saying, you know, 'We know you've got these out of pocket costs, I'm going to cover those. That's going to be my donation, you know, and let's give that a trial'.

MS WILLIAMS: A (indistinct) of hope. That sounds nice.

MS GAMBLIN: Who's that?

MR SEIBERT: So – yes. So, I guess this is the, you know, we can have government do it and report to the tax office or a philanthropist just comes and goes, 'I'm the government for the purposes of this organisation. Give me your receipts and I will give you the equivalent of whatever the tax deduction or make some contribution towards it'. And I guess the question – and it's a more general question – you know, why don't we see that in – in philanthropy? That sort of – we've heard that it's innovating and risk capital and so on, but it might get back to the overheads question, that it's, you know, that – why do you think there's not this sort of innovative things?

MS GAMBLIN: Yes. I think that would be interesting. I have heard before - I'm trying to think of how to say this. So, I have heard before the philanthropy sector say that certain things are - government should pay for, so I do wonder whether that is a case there.

MR ROBSON: Yes.

MS GAMBLIN: But anything that the philanthropic centre can do in terms of helping the volunteering sector, I mean, that would be fantastic. That exact idea hasn't come through to us necessarily. I haven't heard it. I have worked with foundations and the corporate sector and government, state and federal, and it is interesting to work with those different sectors and see, you know, what kind of reporting, what kind of - you know, what they're prepared to find.

I do find the philanthropic centre - the philanthropic sector quite generous in terms of not so much reporting. You know, they're quite happy to, you know, here's the donation and we trust that that's what you're going to spend the money on. Even the corporate sector, to some extent, and there's a lot more reporting with the government sector obviously, which we're find about. But yes, I mean, any kind of increase from the philanthropic sector would be wonderful for the volunteering community.

I have said that to many of our members, that they should not forget that there is a philanthropic sector. They do forget. They're going for, sort of, government grants and corporate partnerships, but often don't go to foundations. And I don't know if that's just in Western Australia, but I think it would be great to see more activity here.

MR ROBSON: You've been very generous with your time. We've gone - we've asked you a lot of questions just because it was so interesting, so thank you.

MS GAMBLIN: I had one other - - -

MS ABRAMSON: You wanted to ask us one other thing.

MR ROBSON: Yes, yes.

MS GAMBLIN: Yes, one other thing. If you don't mind me just going back to the collecting of data.

MS ABRAMSON:

MS GAMBLIN: There was one thing that I wanted to mention that, Tina, you were about to mention, which was the ABS collection - you know, the survey. We find that the volunteering question is buried, sort of, very late in there.

MS ABRAMSON: Yes. Yes.

MS GAMBLIN: And that's why, you know, we were very excited about our state of volunteering report because it's single purpose. It is about volunteering.

MS ABRAMSON: Yes.

MS GAMBLIN: And we did find the reaction to it quite positive and the response. So we got a lot of responses, and we do feel like that was one issue, that it was quite buried. The general

purpose survey - that didn't come up enough. You know, that kind of seemed to disappear, so that was an issue as well. The general social survey, I think it was called.

MS ABRAMSON: No.

MS GAMBLIN: Yes. But the large ABS, you know, survey, volunteering - I mean, by the time people get to the question they don't even know, you know, what the survey's about.

MS ABRAMSON: It's a design issue, and I know that all three of us have been involved with census and things.

MS GAMBLIN: Yes.

MS ABRAMSON: It's a very difficult process - - -

MS GAMBLIN: Yes.

MS ABRAMSON: - - - about which question goes where and in what order.

MS GAMBLIN: Exactly. And we understand that, but I think that's, you know, where - - -

MS ABRAMSON: No, but it's an important point.

MS GAMBLIN: Yes. We wouldn't necessarily say that we wanted volunteering to be collected on a monthly basis, but we were trying to show that with a workforce so huge as volunteers are, it's interesting to look at the difference between when things are collected for paid versus unpaid, and the unpaid survey seems to either be buried or it doesn't happen when it's supposed to happen and that sort of thing.

MS ABRAMSON: No, it's a good point.

MS GAMBLIN: Yes. So I just thought I'd mention that.

MS ABRAMSON: No, thank you. Thank you very much.

MR ROBSON: Thank you very much.

MR SEIBERT: Thank you so much. That's great, yes.

UNIDENTIFIED SPEAKER: Got those questions, so we'll respond (indistinct).

MR ROBSON: Thank you.

UNIDENTIFIED SPEAKER: All right. Thank you.

MR SEIBERT: No, really appreciate it. That's great.

UNIDENTIFIED SPEAKER: Thank you.

MR ROBSON: Shall we take a break or - - -

MS ABRAMSON: Yes, that would be great.

MR ROBSON: Yes. Let's take a - so we'll come back at - I haven't got my clock on me.

MR SEIBERT: 10.15.

MR ROBSON: 10.15. Yes (indistinct) 10 minutes.

SHORT ADJOURNMENT

MR ROBSON: Okay. We'll get underway again. So welcome. If you could please state your name and the organisation that you're from, and then if you'd like to make an opening statement, we're happy to hear that, and then we'll get into some questions.

MS M. McFARLAND: Thank you very much, Alex. My name is Mandy McFarland and I represent an organisation called Educate Plus. We serve people in the education centre - that's schools, universities, and residential college - that work in advancement, and very particularly today, around this inquiry, we have about 475 people that work directly in fundraising in schools, and they're the people that I'm representing.

We've been operating for a long time. We have schools right across Australia, all manner of schools. About 30 per cent of them are the wealthy independent schools that you would assume have got good philanthropy programs, and do. But I think where we put a lot of our focus is on the 70 per cent of smaller schools. Regional, often really small Catholics, often systemic faith-based schools, that are really, really struggling to raise the funds to make a difference in their community, and certainly in their schools.

So they are the people that I'm advocating for today. I just wanted to start by thanking you for the work that you've done on this inquiry. We think it's really important work. There were many recommendations that are going to make a difference moving forward. So I just wanted to start with that, and say thank you.

MR ROBSON: Thank you. Do you have an opening statement?

MS McFARLAND: I just - there's three things that I wanted to raise today.

MR ROBSON: Okay.

MS McFARLAND: I have shared them. The first is having a look at - re-looking at recommendation 6.1 that removes DGR status for non-government schools. The second one is the notion of the nexus between individuals given to building - school building funds and receiving personal benefit. And the third one really is just something that wasn't as broadly expanded in the report, looking at the community benefit and the community impact of the projects that come out of school building funds. So those are the three things that I'd like to - to raise. I have a couple of asks of the Commission as a result, and some facts and comment around each of those three points. They're all broadly expanded in our submission which we made last Friday, so it's available.

MR ROBSON: And did you want to make any - yes, please. Go ahead.

MS McFARLAND: Yes. Let's start off. So the first one is obviously the withdrawal of the DGR status for school building funds. You know, as soon as the draft report was released, we immediately got together as a - as a collective. We partnered with other organisations that have similar membership, and we put out an immediate webinar to - an open webinar to anybody who was operating in schools and operating in fundraising to join us so that we could discuss the report together and really try and collect some data which we could share with the Commission.

It's very fair to say everyone was deeply concerned about removing the DGR status and the impact that that would have moving forward, and to be absolutely blunt, we feel it would have the adverse effect of what you're trying to achieve with this inquiry which is increased philanthropy in Australia.

We obviously - we work in a space every day. We've seen fluctuations. We've seen changes. We've seen improvements, and I think that's probably the area, again, that probably wasn't really expanded on in the report is how much more sophisticated fundraising has become in schools in terms of the talent and the skill that fundraisers need to have in order to run their programs.

So, you know, the notion that somehow they're not doing things correctly or that there's personal gain, people were genuinely shocked because that is not happening in schools at the moment. There's a huge ethics framework around everything that they do. It's all for the benefit of the long term, and the majority of schools - the actual focus is on the legacy piece where you are leaving your gift for the next generation to benefit from.

So, as I said, we give to a whole host of things as Australians. They're generous. They go, you know, from \$25 gifts to multi-million dollar gifts, and they support everything from animal welfare all the way through to educational organisations. We just also felt really strongly that in a time when in other parts of the world individual giving is declining, we've got an opportunity in Australia to not go that path and actually to increase it, but that means making it easier for donors in every possible way.

So my ask of the Commission were two things, was just to work more closely with us. Because we're a membership-based organisation and we have partners like AHISA and CASE which are two of the ones that we worked closely with. We have got really broad reach. So we could do any kind of additional research that you would need in order to explore this a little bit more. We feel there's going to be long-term detriment, and we just want the Commission and the government to be very sure about what that detriment potentially looks like.

The second we really would like to ask, and we had put it in our very initial submission, was actually to open DGR status more broadly than the three funds that they currently support. We really are struggling to understand the rationale around universities having sort of a blanket DGR for any project and any program that they run and schools being so hamstrung with the three that they've got.

Schools, like universities, have changed enormously the focus of what they do with the funds that they - the additional funds they raise are very wide. They're far beyond building plans. You know, there's a lot more around the wellbeing spaces, around - a lot more around talent acquisition of getting good teachers, getting good staff. So these kinds of things - parents who are at the school and old scholars and alumni want to support these initiatives because they can see the value that it brings to the community. So those are my two asks of the Commission around that first point.

The second point around the perceived nexus between donations to school building funds and personal gain, we just - we really, really want to understand the Commission's thinking around that because in - everybody who was on that webinar said, 'It just simply does not happen in our school. We are so governed by the ethics', and the framework of the ATO, firstly, as a DGR entity, and, secondly, around there not being any personal gain, that this is not a popularity contest. This is not about someone who's got a lot of money who can have - you know, gain anything from it. It's purely focusing on philanthropic emphasis.

So again, no-one really understood where the evidence was to suggest that that is the case because, in our experience, that is not the case. So I would really, really like to ask that we possibly look at how - where that information came from, and we'd love the opportunity to explore that more specifically. Many schools offered and said, 'We welcome anybody to come into our system, have a look at how we run our program and, you know, if we're not doing it correctly, point it out', but they all were very adamant that they - there is no personal gain agenda in terms of the fundraising that schools do. So we just would really ask the Commission to explain their thinking on this because we couldn't understand it.

The evidence is the second thing, and then we just wanted to also ask, if it's possible, to conduct sort of more detailed analysis around the source of contributions to school building funds because there was a big focus on families in the school at the time, and those of us who work in fundraising know that our philanthropic support comes from a much broader spectrum of people, many of whom are out of the school and will never be back at the school, whether that's alumni.

It's often groups and particularly schools that have big Indigenous programs. A lot of the local trusts support - you know, make donations to the schools for their students whether that's through scholarships or actual facilities that are bespoke for the needs of country Indigenous kids. So we really wanted to just do more of an - you know, see what the impact is of that.

As I pointed out in our submission, most school building funds are quite long term. They take a long time to get off the ground. So for many people, they make the donation, and their children don't see the benefit of that because there's often a cycle well beyond actually being at the school. So this for us was a really difficult point in the report and one that we just really didn't agree with, firstly, but, secondly, couldn't understand how you had arrived at this comment.

So that was the second point. The third one, really, was something again we felt that the report hadn't possibly delved into deeply enough, and that was the impact on community of the projects that come out of DGR-funded building funds in building projects in schools. We did - you know, because interestingly - and I put that in my submission. We asked the schools on - we did a survey to all those people that were on the webinar and said, 'Give us some feedback that we can share with the Commission'. Just the breadth of the projects that they're running and so many of them have said, 'It's actually part of our strategic priority at the school that our - whatever new buildings we do have to be open to community'.

So, you know, listening to the two ladies from before when they're volunteering in WA, those are the groups that are using facilities because the schools give them for free. They've usually got parents in their school community that also volunteer in other organisations. So, you know, we felt - and smaller schools in regional areas are the ones that are doing it so tough to try and upgrade their facilities. They're working hard to get their programs off the ground. Philanthropy and those areas is not as easy. It's hard work.

There isn't necessarily a same amount of money that there is in the cities, and I'm not telling you anything you don't know, but they're working really hard to get that going. So anything that's going to put an impediment in place is going to also have an impact on the local community far beyond the school.

So we just wanted to see if we could explore that a little bit more and see if there was something that the Commission would like us to - any kind of survey you'd like us to conduct, any research you'd like us to conduct. We'd love to be the conduit for that because we've got the reach, and we've got the faith of those schools that we are all working for the same cause with the light of - that you're looking at this because we believe in philanthropy. We've - many of these schools have survived on philanthropy forever. So those are really the three points that I wanted to raise. So I'd love your thoughts on any of that.

MR ROBSON: Yes. Thank you very much, and we appreciate those comments and then also in your post-draft submissions, you've got a lot of that data, and that's very useful and happy to get the team to follow up with you on that.

MS McFARLAND: Thank you.

MR ROBSON: It's very useful. So just in response to what you said, Amanda, so when we came to look at the DGR system in Australia, we found that you had little if no coherent policy underpinning both in practical - in a practical sense, but also in terms of the principles that were there.

So we developed some principles, and I might ask you about those three principles and then apply them to the existing system. So that's where in general, the approach comes from. We thought that in the context of the entire inquiry and the goal of doubling - giving that we couldn't really not look at the DGR system and totally - we could recommend some wholesale reforms given that we think that's needed.

Now, on school building funds - I'll just say a couple of things. One is we do explicitly recognise the role of government and the importance of government support for school infrastructure. So the question we really then grappled with was - or is the DGR system the best way to provide that support, or are there alternatives, and we might have a discussion about that as well.

And then there is the question which you mentioned about the risk of a nexus between donations and fees. So we looked around at different areas. You mentioned universities. Universities don't tend to charge direct fees. So with all of that's a low risk compared to - possibly to schools. Where that - our acknowledgment of that - or identification of that material risk came from was - well, first of all was identified as an issue in a not for profit work tax working group back in - I think it's 2013. They didn't say much but they did talk about that as a particular issue.

But then also we looked at some examples of invoices that were provided by schools to parents and in many of those examples, if not all of them. Even there's a line for a donation - voluntary donation - and then the school fees are right underneath it.

So that to us suggested it's not direct evidence but it does raise some questions in our mind when fees and upon an invoice is so directly - not linked but it's - you know - right there on the same piece of paper. So for us, even with thinking about that third principle of the nexus between the

donor and the beneficiary that is where we should look at this and that's where the recommendation.

Now, we're very happy that you have provided us with all of that data and evidence. It's exactly what we're after. We're after this conversation, following up. Yes. We don't always get things right. So that's where we're coming from. But I might ask you a couple of the points you've raised. The first, I guess, is the link – that one of the issues with the DGR system in Australia is that – you know – the tax benefit it depends on your marginal rate. And so the benefit as a donor that I get, if I am on a higher income I get more benefit. And that's – you know – that's the way of the system, isn't it? And that's fine.

But then how do we match that up with need? Okay? So you can imagine a school in a low income area for parents and even – you know – the alumni might have very modest incomes. They make donations but the public support – indirect public support through the tax system is a lot lower than in a different suburb with very high income earners and, I guess it's a question of – you know – we recognise that heterogeneity and variation in the population but is there a better way of matching the indirect tax paper support with the need. Because we do recognise the need and one of the things that you talked about. But the government here is effectively providing a dollar one of the – you know – the features of philanthropy is they're not directing where it goes, and that can be beneficial. But, in this case, it does raise an issue as to – you know – is that public support really then being directed to where it's needed most.

So I might just get you to respond to that. I mean is it – you know – an alternative could be like a flat tax credit where everyone gets the same percentage deduction, whether you're rich or poor and then – you know – the public support is neutral in terms of where the money is coming from and then it would be allocated from there. So maybe I'll pose that as the first question and get your thoughts on it.

MS McFARLAND: Sure. I mean I'm not by any means a tax expert in any way.

MR ROBSON: No. Yes.

MS McFARLAND: So I can't even make a comment on that.

MR ROBSON: I appreciate that.

MS McFARLAND: But I think that – you know – we're looking at philanthropy in isolation just as an activity.

MR ROBSON: Yes.

MS McFARLAND: But I think what so many schools are doing – independent, non-government schools are doing is the wrap around that doesn't necessarily get the tax deductions. So I am not even talking about the low – take the low socio-economic school, or a school in country WA for example. They've got people who are making gifts. They are – they're working really hard to get those gifts – they are doing the building funds. It's taking longer because they're taking longer to raise the money. So if there was a way that the government could equalise – make additional provisions for people in – you know – like they do with the funding.

MR ROBSON: M'mm.

MS McFARLAND: You know? It's all based on ECS.

MR ROBSON: M'mm.

MS McFARLAND: So, you know, that's a consideration issue and I know those country schools would jump at it and be so grateful for it. But I wouldn't want to see the good work that is being done in schools that happen to be in high socio-economic areas, getting – being – you know – being disadvantaged to them.

MR ROBSON: M'mm.

MS McFARLAND: So that's the government's sort of challenge I feel - - -

MR ROBSON: M'mm.

MS McFARLAND: - - -and sort of something that the Productivity Commission is going to have to put forward.

MR ROBSON: M'mm.

MS McFARLAND: I'm sure there are ways that we can make it more accessible because the schools themselves are doing that. They're doing the wrap-around for those students to try and – try and close the gap as much as possible. Their fees are lower. So – you know – so all in all it reflects what's happening in that community. So they know the parents can't pay any more. And one of the sort of possible outcomes of this is that if DGR were to be taken away regardless of non-government schools, the money would have to come out of operating costs which is ultimately out of school fees.

At the moment those two things sit side by side on the invoice. So I know it probably looks strange but it's voluntary and I don't know what the percentage is but I would hazard a guess that it's nowhere close to 80 per cent of parents that actually pay that building fund. So that's the question to ask.

MR ROBSON: Yes.

MS McFARLAND: How many of them are taking it up? They fully understand it's voluntary. It's going into a separate fund. It's not going into the operating funds at school and those – that's the delineation I was talking about in terms of the ethics around – this is financial because it's fundraising money that goes into a separate fund, usually the building fund.

MR ROBSON: So you think if – so this is a question – one of the questions we're interested in is – you know – if DGR is removed then, you know, some schools you can imagine might just have a separate compulsory building fund. It's almost like an increase in fees. So is that what you thought or they were just increased fee?

MS McFARLAND: No. I - - -

MR ROBSON: Or what would you think would happen?

MS McFARLAND: I just think the building fund would fall away.

MR ROBSON: Okay.

MS McFARLAND: Because at the moment the building fund is attractive because it has DGR status.

MR ROBSON: Right.

MS McFARLAND: So there's an incentive to get it.

MR ROBSON: Yes.

MS McFARLAND: So if you remove the incentive people go – 'Well, you're not going to – we don't need to support that anymore.'

MR ROBSON: Yes.

MS McFARLAND: There's no value. There's no benefits. But will happen over time is that the money is going to have to be found. You know there was a lot of talk in the report about the government supporting schools with infrastructure. Now for a lot of those independent schools that doesn't happen.

MR ROBSON: Right. Yes.

MS McFARLAND: They don't get a dollar from the government.

MR ROBSON: Yes.

MS McFARLAND: For building. For infrastructure.

MR ROBSON: Yes.

MS McFARLAND: So the money has got to come from somewhere.

MR ROBSON: Yes. And so you think that fees would increase - - -

MS McFARLAND: Over time.

MR ROBSON: - - -at a time as a result.

MS McFARLAND: I think so. We're looking long-term.

MR ROBSON: Yes.

MS McFARLAND: You know, I mean this whole report is looking at long-term growth of philanthropy in Australia.

MR ROBSON: Yes.

MS McFARLAND: In the long-term there's going to be – there can be unforeseen outcomes. And we're raising some of them in – we've raised some of them in our submissions as we feel that ultimately if you remove the incentive of giving to building funds which is operated as a

separate activity by the school, the money will dry up. They won't give as much as they currently give and the money is still going to have to be found because it's not coming from government. We're not – non-government schools.

MR ROBSON: Okay. I'll just ask you a bit more about the sort of nexus. And we'll explore some of the points you made. One is where the bulk of donations are coming from. So do you - - -

MS McFARLAND: Mm.

MR ROBSON: - - -and sorry, I don't have the detail in front of me but so the first question, really, is I guess the extent to which it comes – you have the share, I guess, of donations from parents, alumni – you know – like all businesses as such.

MS McFARLAND: Yes.

MR ROBSON: Do you have a rough idea of that?

MS McFARLAND: It would – again – we did do a bit of research and I think I included some in the actual thing.

MR ROBSON: I think it's in there. Yes.

MS McFARLAND: Let me just find it. But I think what we – yes, I've got it right here.

MR ROBSON: Yes.

MS McFARLAND: We said that between 50 and 56 per cent of the donors to the building fund were current parents.

MR ROBSON: Yes.

MS McFARLAND: So that is across the whole – the whole survey.

MR ROBSON: Yes.

MS McFARLAND: Again, we have to do more work on that because I was – I would suspect that it also is dependent on the actual projects.

MR ROBSON: Yes.

MS McFARLAND: You know there's some projects that are – are more appealing to alumni and the others that are definitely more appealing to parents. You know?

MR ROBSON: Yes.

MS McFARLAND: Like the swimming pool is often going to be something that is more beneficial to the school community.

MR ROBSON: Yes.

MS McFARLAND: And not necessarily alumni. Although many of the pools that have been built lately are open for swimming schools for the local community. So - - -

MR ROBSON: Yes.

MS McFARLAND: So it's not the majority.

MR ROBSON: Yes.

MS McFARLAND: You know?

MR ROBSON: And then on that opening to the public, you know, you mentioned opening to the community and so on and one of the things we heard last week was around – you know – in the building and the education revolution there was a specific clause - - -

MS McFARLAND: Yes.

MR ROBSON: - - -or set of clauses around that. And to the extent that – you know – your member schools are already doing that, do you think that – you know – putting some – you know – restrictions around that in terms of DGR. I mean you're doing it already. Would you have a problem if that was part of the system as a whole?

MS McFARLAND: So are you saying – just could you repeat that?

MR ROBSON: Yes.

MS McFARLAND: So I understand it.

MR ROBSON: So the idea would be – yes, you'd have access to DGR but as a condition of that you have to do certain things which – you know – you've said they're already doing.

MS McFARLAND: Yes.

MR ROBSON: And it would be available and unreasonable – or whatever - - -

MS McFARLAND: Yes.

MR ROBSON: - - -you know – as some sort of clause in the DGR.

MS McFARLAND: I think that would be. And I think because many schools are doing it and, again, I can't talk for every single school - - -

MR ROBSON: Yes.

MS McFARLAND: - - -because I had a conversation with a school in Sydney around this. And they said they can't afford to open to community because it's a traffic issue.

MR ROBSON: Yes.

MS McFARLAND: So they couldn't get passed their local council to give them the go ahead to open it up. They could only operate it during school hours. So, you know, again I can't speak

for every single school but in the feedback that we got they listed all the projects that they were – and vast majority of the recipients or the (indistinct) said we have – it's now part of our strategic objectives we want to engage. Because if schools want to come out – you know – they're hubs. They always have been. But they're more than ever now and particularly in regional areas.

MR ROBSON: Yes.

MS McFARLAND: They want to bring the community in.

MR ROBSON: And I thought there was a really interesting and strong point in your submission which was around – to the extent that schools are doing this voluntarily - - -

MS McFARLAND: Yes.

MR ROBSON: - - - if DGR is removed, then those public benefits will also be reduced, so.

MS McFARLAND: Absolutely. Absolutely.

MR ROBSON: Yeah.

MS McFARLAND: Because it is the groups like, you know, Volunteering WA who use the facilities after hours, particularly on weekends, and they - you know, scouts and - they're just so many and so varied, and it would be - look, that in itself would be really a really interesting study. And we - we'd love to be part of that, if that is something that the commission would like to, you know, propose doing or have time to do. But we just don't want it to be overlooked because I think it's got a massive impact.

MR ROBSON: Well, I've taken too much time. Is there question just - - -

MR SEIBERT: Yes. I suppose just to follow on from this, because I suppose if you've got, sort of, a building that's constructed using tax-deductible funds and it's accessible to the wider community, and, you know, I've read in your submissions some examples of that. There's the - the one in South Australia, Scotch College.

MS McFARLAND: Yes. The Purrana. Yeah. Yeah.

MR SEIBERT: Yes. You know, that obviously changes the balance in terms of, you know, who's benefiting from this and expands it out to the broader community, sort of - maybe along the lines of that sort of - that hub role for these schools.

MS McFARLAND: Yes.

MR SEIBERT: But if it's not available, and if it's closed off and it can only benefit those that are attending the schools, that again has, sort of, a different equation in terms of the broadness of the benefit. Do some of the schools that are your members - do they sort of have partnerships with other schools in other areas that they sort of, you know, make contributions to their buildings? That sort of thing?

Like, in terms of - there's the, you know, the ability to open something up in a particular area, but also you fund-raise for a building. You can use some of that fund for your building, but then you

can also have a partner organisation and you contribute some of the funding to there? Like, you know, in a disadvantaged area or something like that. Are there those sorts of partnerships?

MS McFARLAND: I don't know of any off-hand, to be honest, in that regard. But what I do know is a lot of the - so even in regional areas, there's always a school - there's always a wealthy school, whatever - however you - you know, school's got better resources, put it that way. And they're the ones that usually partner with other schools. So other schools don't contribute to that, but they partner with them and say, 'We've got a partnership with a sister school or a brother school' or, you know, a boarding school, 'to use our facilities'. So that's how they partner.

I - I don't know of any other schools that would make a financial donation towards a building if it's going to be owned by another school. If the building was completely co-branded as a facility for both schools, possibly. But I don't know of any of that. I'd love to - I'd have to do research on that. I don't - I don't know of any, to be honest. They're mostly - they're mostly fundraised by that community, and then opened up.

MR SEIBERT: Yeah. And just on the - sort of, the private benefit. There's sort of - there's different levels here in terms of, yes, there are rules in place around not being able to say, 'Make a donation and the fees will go down'. I mean, there are rules around that, I think you referenced them in your submission. But then there's the broader point that when donations are being made towards buildings, well then, that's not something that needs to be covered through fees, so there's a fee reduction, which is a form of a - which can be regarded, and it's, you know, it's a draft report.

It's a - it's a - you know, we're open to different views as a private benefit when fees are reduced because donations replace those costs in terms of building buildings. But I suppose a hypothetical, in terms of understanding this private benefit question. If you've got, say, parents and others contributing to a school building fund, would they still contribute to it if it was, like, an arms-length entity that receives donations and then allocates them to schools that apply for funding, based on need, you know, where the school is, the need of that particular school, et cetera. If it wasn't aligned with a particular school, would parents still contribute to a general building fund?

MS McFARLAND: I can only speak personally, and I would say, probably not. Probably not. Because the bureaucracy around that also, if you're just thinking about it from the other perspective, the actual process of having to get that money for the school. You know, these teams are lean. There's maybe one or two people doing a lot of work, so it's just adding another layer of complexity, and what we - we really, throughout our submission, let's just make this easy for people to give and easy to administer.

That's not to say that they're not administering it with compliance and governance and ethics and frameworks, of course they are. But, you know, that's just going to create a whole other layer of complexity, and you know, parents are not going to be as assured that the funding that they - or the donation that they've made will go towards the project that they have chosen. And philanthropy is about choice. It's about your values alignment, you know?

And that's why there's so much fluctuation, even within a school's philanthropy program. There's some projects that are wildly popular because people can see the need, and others where the school thinks this will be - it's needed - - -

MR SEIBERT: Which ones are popular and which ones aren't? That's a very interesting - - -

MS McFARLAND: It's, again, difficult. Each school is different, and I just take that Purrana Centre at Scotch. You know, that was - that's - it's been such a big - a success story because it is so open to the public, and I think people - parents really like that. They really like the fact that they're making a donation, they're enhancing the facilities at Scotch College, because that is where they - they connected.

But they're also making - they're doing a - the greater good, you know? So I don't think any of these things are off the table. They just aren't necessarily happening at the moment. That's not to say they can't happen, but I don't - my - my guess is, it probably wouldn't be as high as it would be if it was individually channelled to each school. So ultimately, we'd be losing, you know, in the big picture.

MS ABRAMSON: Thank you. I wanted to ask you about the comment you made before about the school you spoke to and the times at which they could make the facilities available. So most - but I'm sure not all - of our independent schools are located in suburbs, so is it your expectation that many of them - you won't know for a fact, I know - would have planning restrictions on the use or their facilities or their sportsgrounds?

MS McFARLAND: I wouldn't think so, to be dead honest. But it was interesting because we had this conversation, and we sort of spoke about it on the webinar, and then I had so much feedback afterwards, and someone suggested exactly that: if we made that a prerequisite of DGR, that you had to have some kind of community use, would that be detrimental? And this person that suggested said, 'Because that's already happening at our school, so why is it not happening at other schools', and most people came back and said it is happening.

But there were one or two that just said, 'We've actually tried it' - this was actually a government school that was trying to get into fundraising, which is a really emerging market, you know? There's also a, sort of a perception that it's only non-government schools that do fundraising. State schools are starting to think about it because it allows them to do more, quickly. So anyway, so maybe their compliance is different. Maybe their regulators are different, that they've actually got to go to more government-based organisations.

MS ABRAMSON: It's interesting.

MS McFARLAND: It is.

MS ABRAMSON: Because I have a background in planning law, so that's why I'm, sort of, very interested in this. Because - - -

MS McFARLAND: And traffic audits are the bane of your life. I'm sure they have always been the bane of your life.

MS ABRAMSON: So I'm just sort of thinking that probably, you know, there's often a lot of fuss when schools want to expand, especially the private schools. There's a lot of - in some of the suburbs, people who are very annoyed about that because they want to build - - -

MS McFARLAND: Even though they live next to a school. Yes.

MS ABRAMSON: Yeah, yeah. So is it - but it's something to think about, that. I didn't expect you to have an actual answer, but what you said was very helpful.

MS McFARLAND: No. Ah, good. Good.

MS ABRAMSON: Thank you.

MR ROBSON: Thanks very much.

MS McFARLAND: Such a pleasure.

MR ROBSON: Yeah. We're very keen to follow up with you on any data, so we'll - - -

MS McFARLAND: Thank you.

MR SEIBERT: Yes. The survey data will be very helpful with - yeah. The - - -

MS McFARLAND: That would be great. I can send that to you, and again, I would just like to say, thank you so much. This is such an important conversation, and one we absolutely want to have, and we just want to grow philanthropy in Australia. We're a lucky country, and - make the most of it.

MR SEIBERT: We appreciate your contributions. Thank you for your time. Thank you so much.

MR ROBSON: Okay. We'll take a break now till 11.15. Okay. Thank you.

SHORT ADJOURNMENT

MR ROBSON: Shall we get started? Yes, all right. Let's get under way. So if you could just state your name and the organisation that you're from, for the record, and if you've got an opening statement, we would be happy to hear that, and then, if you're ready for some questions.

MR I. MURRAY: Thank you. So Ian Murray, and I'm from the University of Western Australia, although I'm providing these comments in my personal capacity, not in any university - it's not an official university position.

So, in terms of - I didn't have a long opening statement. I guess, I just want to draw the commission's attention to three areas, but then happy to talk more generally about the draft report, or touch on any of the issues I've raised in my submissions.

One was the principles that you've proposed for determining which organisations should receive donation concessions. So if you're reforming the DGR system, how do we adopt a principles-based approach? So, obviously, from my submission, I find it highly commendable that you're suggesting moving toward a principles-based approach, because that's a complete change to what has been the case in the past.

But the challenge is coming up with those principles. And I just had a small tweak, I guess, to the principles that were proposed, and that was around thinking through the process benefits that come with the way that charities and not-for-profits operate. So it's not necessarily just the goods or services that they produce in a fairly direct sense, but the very way they operate might have real benefits in and of itself.

So whether it's, sort of, the associational dimension to some of those organisations, and the way that can involve people in civic participation, or, you know, it could be, sort of, other matters like that, as well, that really, sort of, pick up on, you know, changing people's thinking to more altruistic modes of acting, as well, rather than just, sort of, thinking about maximising profit and their own individual wellbeing.

So, to the extent that it's possible to incorporate those sort of process benefits within the principles, I think, that would be a good thing to do. So that was the first point.

The second one was around thinking through ancillary funds, or other philanthropic intermediaries, and questions of timing that come up, because they're, sort of, addressed in different ways in the draft report, and those sort of questions have come up in other jurisdictions, as well.

And I've done some work on intergenerational justice, which, I think, can be helpful to thinking through, because, with those timing questions, there's not really any easy answer about, you know, how much is too much? what should a minimum distribution rate be? should we have minimum distribution rates?

But I think some of that thinking from an intergenerational justice perspective is useful, because it starts - well, some of the strains of that talk about sufficientarian ideas: so you've, sort of, saved up enough to meet a threshold of basic needs.

Now, that might be, in this sort of context, you know, enough to say that there's some money there to support civil society existing in the long term. And that, sort of, then means, okay, we've got a source of funds to support social capital; we've got a source of funds to support, you know, longer-term thinking than is possible with political cycles, or, you know, more innovation that we can expect, necessarily, from government departments.

But once you move beyond having that enough set aside, then we don't necessarily have to have a system that, you know, necessarily encourages or discourages. Then we have to start thinking, well, does another principle come into play? You know, do we then have prioritarian principles that say, well, GDP is going to keep increasing.

You know, if we, sort of, expect that government spending - you know, government policy is not going to, sort of, change markedly over the long term, in terms of how much money we're putting into these sorts of things, and yet we're going to get, you know, more and more contributions over time - does that suggest that, perhaps, we ought to be spending now, and we let contributions in the future make up the extra funding that we need for extra future activities, once - you know - once we've met that threshold? So, happy to, sort of, elaborate on that, as well.

And then the final area was just on extent of regulation, whether the charities regulator should have a focus, or more of a focus, on enforcement. I think that was a trend coming through from the report. I think Myles McGregor-Lowndes has talked about facilitative regulation: the idea that, rather than, sort of, going and catching people out, the regulator might be there to try and help charities go about - or firms, or big organisations - go about their activities.

And so, I guess, I just want to stress, to some extent, you know - we can be very vigilant about use of financial - well, you know, financial vigilance, but does that, sort of, then miss the point of, well, are they actually pursuing their purposes? Are we somehow, sort of, stopping

organisations from doing that, because they're spending too much time and energy on meeting all the financial regulatory requirements that we have. So that was, sort of, the third point that I wanted to make.

MR ROBSON: Okay. Thanks very much. I might - I was going to hand over to Krystian, but maybe - I'm going to exercise my prerogative as chair, and ask you just one or two questions.

On the DGR point - and, you know, I think you've made the good point around the process benefits, or special benefits associated with what charities do, and so on. So I think we do recognise that in the report. I guess, in my mind, those sort of benefits would be captured in principle 2, which says, is the DGR concession - you know - is that the best way to support the activity? You know, and then that's relative to alternatives. So - but I appreciate, we could maybe be clearer about that, to say, you know, there's - you know, a dollar is a dollar, but sometimes it may not be, if it has these other impacts.

MR MURRAY: Yes.

MR ROBSON: I mean, similarly, you could say - and I think we make this point in the report, too - just to say, well, you know, there's advantages to government doing things - - -

MR MURRAY: Yes.

MR ROBSON: - - - above and beyond what you might think from a dollar for dollar comparison.

MR MURRAY: Yes.

MR ROBSON: So - but I think it's a good point.

MR MURRAY: I think that's a fair point.

MR ROBSON: Yes.

MR MURRAY: I mean, I think the principles can easily - without major change to your three principles - incorporate the process better.

MR ROBSON: Yes.

MR MURRAY: My point was more about just being a bit more explicit about that being (indistinct).

MR ROBSON: Yes, okay. All right. And then on ancillary funds, from what I think you're saying is that if there was a change in minimum distribution rates or not, your, sort of, point as I took it was there should be principles based as well.

MR MURRAY: Yes.

MR ROBSON: Yes. Okay.

MR MURRAY: Well - - -

MR ROBSON: And whatever those principles might look like.

MR MURRAY: That's right. Because, I guess, how else are you to determine what the rate should be?

MR ROBSON: Yes.

MR MURRAY: Yes, I think at the moment it's, sort of, a generation neutrality position is sort of what's been adopted by default, you know?

MR ROBSON: Yes.

MR MURRAY: That's my (indistinct) said that explicitly. That's sort of my interpretation (indistinct) that, you know, we've tried to pick rates that basically allow you to maintain the real value of the assets that are already in there.

MR ROBSON: Yes.

MR MURRAY: But over time they're not going to, sort of, build up massively, but they're also not going to reduce. I question whether that's correct because, I think, actually given there are going to be extra contributions going in over time, probably (indistinct) build-up of assets, but I guess how are we to say that that's the right rate to select.

MR ROBSON: Yes, okay. All right. Thanks. Krystian, do you - - -

MR SEIBERT: Yes. Just on that, with the sort of - it (indistinct words) thinking around sort of the ancillary funds and these frameworks for considering their regulation. In terms of, like, translating some of these intergenerational justice considerations into practice in terms of the regulation (indistinct words) et cetera, what are some ways of doing that because there's the principles, but then there's sort of like trying to apply them as to what that means and - not saying for you to nominate the minimum distribution, et cetera, but - - -

MR MURRAY: Yes.

MR SEIBERT: - - - if you can maybe kind of step us through sort of some options there that you think (indistinct).

MR MURRAY: Yes. So I mean, there's different ways of doing it. One is just use the tax system and just, you know, tax. The government can redistribute in accordance with what it thinks is appropriate from an intergenerational justice perspective, but that's, I think, expecting too much of government. How is government going to be able to know what the sector is doing in response to what government - you know, so I think there are dangers with that approach.

Another approach is to use minimum distribution rates and just set them at a level that, you know, across the board are going to give you what government would like in terms of principles of intergenerational justice. You know, what does government think the right sort of threshold is in terms of money that's saved up and sitting there to support civil society. And you know, set your distribution rate in some way sort of responds to that.

So if government thinks, well, contribution is going to go up over time, you know, it's sort of hand over it well. From the baby boomer generation for instance, then maybe we should be sort

of aiming for a slightly higher rate than we have at the moment. And another way of thinking about it, which could be twinned with that even, is making a bit more explicit that the directors or trustees of these ancillary funds or other philanthropic intermediaries actually have to think themselves about intergenerational justice principles.

So they need to actively turn their mind to thinking how much money do we need for the future, and then justify that in some way and think about, you know, is that some sort of report on, well, why have I got this much money accumulated; what am I planning on doing with it in the future. So relying merely on the duties applying to those controlling the organisations.

MR ROBSON: What do you think about attacking on your separate point (indistinct words) facilitating regulation for - in relation to ancillary funds. What do you think about the idea of, you know, having - have a minimum, but then some sort of recommended or comparison rate or some sort of - you know, and that could be (indistinct words) charities - they could get together and say here's what we think you should be doing or, you know, government could feed into that and then, you know, funds themselves could - and there'd be some consensus arrived at and say well, here's what we think you should be doing, but we're not going to - because of the facilitate we're not going to - - -

MR MURRAY: Yes.

MR ROBSON: And there's a minimum as well.

MR MURRAY: Yes.

MR ROBSON: But, you know, that's with a light handed touch rather than coming up with a - you know - - -

MR MURRAY: Yes.

MR ROBSON: - - - a formula, as it were, and then sort of - and then imposing that as - what do you think about that?

MR MURRAY: I think that's a good idea. I mean, I've sort of thought of something similar before which is having a minimum rate as a safe harbour.

MR ROBSON: Yes.

MR MURRAY: You know, if you normally go through the trouble of actually - you know, you're a small organisation sitting down and thinking hard about what is intergenerational justice require, you go with the safe harbour minimum rate.

MR ROBSON: Yes.

MR MURRAY: If you want to think a bit harder and select your own rate and justify it, then you could go with that.

MR ROBSON: Yes.

MR MURRAY: So I think what you're suggesting is sort of similar to that in some ways.

MR ROBSON: Yes.

MR MURRAY: But perhaps you're thinking of that applying across - whether it's all ancillary funds or sort of, you know, components of them because it may be that depending on what your purpose is as an ancillary fund, you know, there might be slightly different rates, you know.

MR ROBSON: Yes.

MR MURRAY: Say you're an ancillary fund for a religious - you're going to hand on - maybe not religious in Australian context, but you're going to hand on money to sort of a community that's growing over time to be used for their benefit in whatever the cause is that you're giving that money to. It might be that actually there's an argument there you need to build up money now because this community that's going to be benefited is going to keep increasing over time. Whereas if you're an ancillary fund that's giving to a broad range of charities where you think it's going to be pretty constant demand over time, there might be a different (indistinct) that might be appropriate in that sort of context.

MR ROBSON: Yes.

MR MURRAY: But I think there's some real benefit to having rates that sort of apply to groups of organisations if they can agree on it. That would reduce the cost of working out what an appropriate rate would be in the first place.

MR ROBSON: Yes. Sorry, and one last one and then (indistinct words) so on the safe harbour idea, yours would be that, you know, there'd be some sort of statutory minimum rate just sort of what we have now.

MR MURRAY: Yes.

MR ROBSON: But then the fund itself could bind itself to say in its governing documents or whatever (indistinct words) setting this up. Our minimum is going to be, for the sake of argument, 20 per cent and that's what we're going to do and it's what we commit to notwithstanding the fact that there's a 5 per cent minimum.

MR MURRAY: I think that's right. Although I think you'd have to allow change over time with that.

MR ROBSON: Yes.

MR MURRAY: But that's exactly, yes.

MR ROBSON: Yes, okay.

MR SEIBERT: Just on this very question just because (indistinct words) there is this - it's interesting, this concept of getting the trustees to think about questions around intergenerational justice because there's a requirement in the ancillary fund guidelines to have an investment strategy and to think about what objectives you have; what you want to achieve through that.

But there isn't a requirement to have, like, a philanthropic strategy and to actually think through these questions. So there are also ways to kind of say well, you know, you need to have a strategy for your ancillary fund, you know. And you know, come to a determination about, you

know, how you grapple with some of these questions around intergenerational justice, and it's a nudge then to do that - - -

MR MURRAY: Yes.

MR SEIBERT: - - - even if there's no kind of hard and fast rule. In terms of the floor, like - because there is - I think in your submission you say that sort of the 5 per cent could be perceived as a bit low - - -

MR MURRAY: Yes.

MR SEIBERT: - - - amongst - by some, but yes. Do you have any views around the appropriateness or not of it sort of yes?

MR MURRAY: So obviously you're asking someone who doesn't (indistinct words) so you've got to take what I say with a complete grain of salt in that regard.

MR SEIBERT: Yes.

MR MURRAY: I think my observation is that 4 or 5 per cent seems to permit a little bit more than maintaining the real value of money. And I think that would be fine if we ignored further contributions, but given that there are further contributions coming in, that seems wrong because look, I guess it depends. Have we met the minimum threshold for how much should be set aside to support civil society.

If we think no, we want a whole bunch more money sitting in philanthropic intermediaries so it can be paid out to support civil society organisations. Well, go for a lower rate. But if you think, well, we've got a fair amount set aside there that's going to support civil society, we don't necessarily need to grow that massively beyond, you know, maintaining (indistinct words) over time, then you set a higher rate. So I think it's just that - most of the discussion is just the thought of further contribution seems to be ignored, and I think that has an impact on the rate (indistinct) set.

MR ROBSON: Julie.

MS ABRAMSON: Yes. Ian, firstly, as I said, thank you so much for contributions you've made. Meant to ask you about the ACNC and enforcement and you're absolutely right. You see a theme from us about enforcement powers. Part of the background of - just to set that out and then I've got some specific things to ask you - is that we know that the amount of money under management, for want of a better word, with charities is very large. So it was 281 billion in 2021 and it had increased by 32 per cent from 2017. The government's goal of doubling philanthropic by 2030 means that there'll be even more money flowing in. So I'm really interested in having the conversation about facilitative (indistinct words) management or whatever the term was. You'll correct me on that.

MR MURRAY: (Indistinct words) yes.

MS ABRAMSON: Because we wouldn't accept that in another sector. When we talk about managed funds under investments, we have very strict terms and conditions about that. So the sentiment that you got - we were quite direct about that.

MR MURRAY: Yes.

MS ABRAMSON: You know, we said in the first sort of iteration you did this, now we think you should do that. So, I'm interested in your comments around that and the type of, sort of - as I said, we did have a view about enforcement, but that's the backdrop to it and why we thought that.

MR MURRAY: Yes. That makes sense. I suppose my worry in the charity sector is because they're not for profit, they're for purpose organisations, it's much harder to work out whether you're actually pursuing your purpose appropriately.

Now it's hard to measure that and so I guess I'm worried that we're going to start having accountability measures that go back to the things that are easy to measure, or easy to perceive which is often around, you know, financial regulation and reporting on that.

It's pretty hard, really, to measure whether organisations are appropriately pursuing their purpose once you move beyond the financial dimension, or, you know, worries about return of private benefits to those running them.

And so I guess I'm worried, if we focus too much on that does that mean that the leaders or the workers in these organisations focus too much on that and they forget about, well, how do we pursue the purpose which is the real difficult thing. So I think that that's a distinction between regulating for profit industries.

MS ABRAMSON: Except we would say, and it's a really interesting conversation. I'm very direct, but you know that now. One of the things we would say is we don't relieve people of work health and safety obligations. So there's a whole lot of obligations that we say, we know you're a charity.

MR MURRAY: Yes.

MS ABRAMSON: And the difficulty always is, you don't want to discourage volunteers but then we've had histories of royal commissions where very unhappy things have happened. So, in your view, where do you kind of set that balance. Like, what is too much regulation. I get your point, while we're focussing on finances, but we've had the conversation with (indistinct) being about, well what's your purpose. So what are your views about that?

MR MURRAY: Yes, I think it's a really difficult – so, you know, I'm giving you – it's easy for me to say this. It's difficult for you to actually put it into practice, and I guess no one wants to be the regulator who, sort of, gets accused of stepping or, you know, sitting by allowing things to happen that shouldn't happen.

I mean some of my experience has been looking at some of the native title charitable trusts that exist in Western Australia. And in many ways both the trust documents heavily regulate a range of matters and then there are a number of regulators like the attorney-general who actually has been very interested in these bodies in Western Australia, which is a little bit out step, that perhaps approach to the attorney-generals in other jurisdictions.

But I'm not sure that that level of interest and level of regulation has actually helped meaningfully those native title charitable trusts to pursue their objectives, nor has it necessarily helped stop some of the financial irregularities and other issues.

So the (indistinct) people's trusts report's a public document that's out there. It lists a whole range of breaches that occurred in a native title charitable trust setting and also lack of pursuit of the mission.

So I suppose my concern, you know, from observing fairly highly regulated both within the trust deeds themselves and then also regulators stepping in and being concerned and being involved in matters. In that context, a lot of the charitable trusts that are out there are sort of quite worried and quite cautious about the way they go about pursuing their purposes. And so the ones that aren't necessarily in the headlines for the doing the wrong things spend years and years and years agreeing, you know, each particular charitable project to pursue.

So it's very, you know, time-intensive and costly to actually do that. So I guess that's just sort of one set of examples of fairly heavily regulated in different ways and yet not necessarily a lot of success. I mean there are success stories, but not as much perhaps as you'd hope for in terms of pursuing outcomes from those charitable trusts.

MS ABRAMSON: So the issue too – that's a really helpful example. It's a trust and confidence issue. So we're also worried about the consumer that gives their money and they want to be sure that their money – I take your point about purpose, but their money is actually going to the charity.

MR MURRAY: Yes.

MS ABRAMSON: And being used in the way that, you know, it's not funding a lavish lifestyle or something.

MR MURRAY: Yes.

MS ABRAMSON: So, I get the point. It's just hard to know where to strike that balance and the other observation I'd make is that regulators never get the good rewards for being light touch. They get beaten up for missing something that everybody else with Harry Hindsight things they should've seen.

So that's kind of why we're, sort of saying, well it's a lot of money. So I take your point about the charitable trust, but it's hard to know what level to set that regulatory burden.

MR MURRAY: No, I completely understand. I'm probably being a bit provocative in suggesting this.

MS ABRAMSON: No, it's good.

MR MURRAY: But I know that part of it's changing the mindset and the culture around accepting mistakes in the charity sector to a greater degree. I mean I know there have been suggestions that in some ways, you know you do better just handing some money to people suffering disadvantage and leaving them to decide what they want to do with it themselves.

They're best able to work out how to, you know, address the issues that they're facing rather than, sort of, coming in and providing particular goods or services or things like that to help them.

So, I sort of wonder are we better off having a culture of saying, well, we accept there are going to be mistakes in the charity sector. We accept things are going to go wrong and that's okay, if it means actually we get more good done as a result of that. But as you say that's not easy for regulators to sit by and let that happen.

MS ABRAMSON: But who would bear the burden? So you would have people under – and this is a really helpful conversation, so thank you. Who would bear the burden, though, because you would have people who don't get the service who would've been entitled to get the service at the one end and then the charitable giver, and I'm talking about individual givers as opposed to other people can make their own arrangements.

MR MURRAY: Yes.

MS ABRAMSON: So they'll feel that they were misled, possibly under the consumer law, so that's where the difficulty is, and we do know with philanthropy that part of the good thing about philanthropy is that people can afford to fail. But that's in a set different circumstances than regulation.

MR MURRAY: Yes, I mean that's a fair point. I mean I guess in terms of who should bear the burden, I guess if there's more good that's being pursued because we allow some regulatory failings to exist, and, you know, I don't know whether that's necessarily going to be case or not. But, you know, if it's possible that that's the case then there might not be – there'll be individuals bearing burdens, but the net good would be great than it otherwise would be.

I guess that's my only worry, is we spend so long in terms of time and resources on the regulatory side and then there's not enough left to actually provide goods or services to people.

MS ABRAMSON: No, I understand, and this compliance burden is an issue as well. Can I ask you about the regulatory architecture, because one of the few people who kindly commented on it.

MR MURRAY: Yes.

MS ABRAMSON: So I'm interested in any views that you might have. What might make it more successful than other forums. And we did a little bit of design work around that, so your views would be really welcome.

MR MURRAY: So, I mean, I thought the ideas in the draft report about, you know, increasing that level of coordination, also greater information gathering powers. I think that's all going to be incredibly helpful.

You know, if we're stuck with a – maybe in an ideal system there's a referral of powers so we can have one truly national regulator. But if we do have a system where it's a federal system of multiple regulators, and there are benefits to that too because you can trial different approaches in those different jurisdictions, then I think the report suggestions around greater coordination even than we have at the moment would be helpful.

Also a greater information base so that regulators, you know, know when they need to act. Even better than they do at the moment. I think those are all really good and useful things to be doing. It does, sort of mean if we have that system, it's harder to adopt some of the approaches that have been taken elsewhere like in England and Wales where you do have a truly national – not just for

England and Wales – regulator who can then be an administrative body approving various things rather than having to go to court. You know, because part of that report talks about dormant funds that are sitting there. I think even (indistinct).

MS ABRAMSON: And you've got some material in your submission.

MR MURRAY: Yes, so even (indistinct) have dealt with that reasonably well by making it actually quite easy as the responsible person for a charity with dormant funds just to apply to the regulator who will then approve pretty well most of the time any reasonable suggestion for reforming that. Whereas here it's much harder to achieve that. You got to go to the supreme court, normally, to do so.

MS ABRAMSON: Yes, I just had, if it's okay one final question I wanted to ask you about charitable trusts. So our report doesn't really, sort of, talk too much about charitable trusts. But, I think, you know there've been other reports about them.

So I'm interested at the moment, and I'm not saying that the commonwealth in any way will be stepping into this space. It's a state-based regime. But just interested in your observations because you've done quite a bit of work around those issues.

MR MURRAY: So in terms of how well regulated they are, or?

MS ABRAMSON: Well just the form of regulation, to be honest.

MR MURRAY: Yes.

MS ABRAMSON: It's state-based. It depends on what the Trust Act is and what sort of outcomes you're getting. So just some observations would be helpful.

MR MURRAY: Yes, so I guess the problem with it being state-based is it depends very much on the Attorney-General of the day and the department that they have and in a lot of cases there's not a lot of resources within those attorney-general departments for actually dealing with charitable trust issues.

So often in terms of regulation the only way that investigation is going to occur is something is written in the newspaper about what's going on with charitable trust or some other tip-off like that. I don't think in a Western Australian context there's sort of active measures out there by the AG just to keep sight of all the charitable trusts and to actively monitor what they're doing. It's a more active approach.

I mean the ACNC information gathering property helps with that and there is a systemic issue the ACNC could pass that information on. But there's obviously that then, you know, how well do the two work together. You know, that can sort of raise issues. So improving that coordination I think would help.

MS ABRAMSON: The regulatory forum could help with that.

MR MURRAY: Yes, that's right.

MS ABRAMSON: Yes.

MR MURRAY: But I mean I know from the perspective here in WA anyway, the Attorney-General's been quite active in terms of charitable trusts. There've been quite a few schemes that have gone through for changes to charitable trusts where they are very helpful if you approach the Attorney-General and say you'd like to make changes, that's just the (indistinct) working through that process. It doesn't mean it's still a time free or cost free process, but you know, they are quite helpful in this format – process.

I don't think there's any particular reason that it would have to be state – you know, if we set the constitution to one side, you know, is there a good reason to have state-based regulation of charitable trusts, not necessarily. I think that just happens to be – because that's an area of state responsibility and not federal responsibility. England and Wales seem to do quite well at basically treating charitable trusts and incorporated charities now in very similar ways.

MS ABRAMSON: No, that's really (indistinct).

MR SEIBERT: Yes. Because following on from this, I suppose one of the challenges for the ACNC having more of a facilitative role is – are the constitution limitations. And – and also that it's apparent that the states and territories have got different provisions regarding trusts and charities. Some apply – can apply their powers in relation to charities more broadly, some just trusts, I think that decision in New South Wales around, you know, whether something is a trust or not.

And you mention that you've got a forthcoming paper, *The Reform of Charitable Constitutional Principles, Should Australia Follow England's Path in Aligning Charitable Trusts and Corporations*. Would you be able to just unpack a little bit about, sort of, what you explore and look at in that context?

MR MURRAY: Yes, so that's – that's all looking at, I guess, ease of doing things in England and Wales versus in Australia. So in England and Wales, really, in Australia we have, I guess, two texts – there have got to be grounds. If you want to change your purposes, you've got to meet the (indistinct) or statutory (indistinct) grounds which, you know, impossibility or inexpedience or purpose, cease to provide a useful and effective method. But actually, they're quite difficult grounds, on paper, to come within. Once they (indistinct).

If you manage to go through the hoops of getting to court, surprisingly judges are quite happy to tick off that you've met those grounds even when you think there's no way possible this organisation as shown inexpedience or, you know, cessation. But it's actually quite difficult on paper, you know, to meet those texts, and so that's a disincentive in the first place, having to meet that grounds threshold. England and Wales have got rid of that.

So basically, if you're a responsible person of a charity in England and Wales, whether that be a corporation or charitable trust, if you just reasonably believe that it's for the benefit of the organisation to change the purposes, you can apply to the regulator to do so. So it's a really – there's almost no ground for applying, and then when you change to a new purpose, you just have to show or explain how that new purpose bears, you know, some similarity to the old purpose.

So you can't completely change to – without a very good reason – a purpose that's wildly different to the original purpose, whereas in Australia there's both grounds and also similarity requirements to these applying. They've got rid of that in England and Wales, and they have an

administrator, not the courts making those decisions. So it's just a quicker and easier process to go through.

MR ROBSON: Because just on that, just say there's the ACNC at the federal level, there's national charity regulators forum which is sort of the regulatory architecture. I mean, hypothetically, if there are sort of different state and territory Acts in this place and they kind of, you know, WA does this, New South Wales does that. I mean, reflecting the joint stewardship model, there is – there's a federal role, there's a state territory role.

I mean, is there an argument for at least having a consistent approach within the states and territories? And, I mean, leave it out there, an idea, say, like, a model charities Act or something between the states where they have the same processes, same systems, that sort of thing?

MR MURRAY: Well, there's certainly – well, I guess there's probably a few points here, I think. One, there's no reason why AG's couldn't fulfill that role that the charity commissioner in England and Wales does. You, know they can approve – they already can approve purpose changes for small charitable trusts at the moment. It's more just once you get beyond small that they can't approve those changes.

So there's already processes in place. Not every jurisdiction, but many jurisdictions, but attorneys general to approve those changes. So you could rely on them to do that and get many of the benefits of the model of England and Wales.

Do you want the same regulation? I guess there are benefits in it if you're a nationally operating charity, you know, sort of what the regulatory regime is. Although usually it would probably be only one regime that applies to that charitable trust and it's created in a jurisdiction then subject to that jurisdiction's rules. So it might not be quite the problems that we have with fundraising when you operate nationally, then all eight different sets apply to you. Well, seven if we exclude Northern Territory.

So I think there's probably slightly less problem with having differentiation and then you get the benefits, I guess, of a federal system. You allow differentiations. You'll see which rules work the best and then the others can then follow that. Make that change, but, yes, just allow that, sort of, creativity to exist. Because the models are all – we don't have uniformity at the moment, that's true. There's different approaches in different jurisdictions. A few of them are similar to each other, but there's, sort of, big differences.

WA's just updated its legislation markedly. It's got significantly greater information gathering powers of enforcement, powers in the WA Act than any of the other pieces of legislation have. Queensland's in the process of updating theirs at the moment as well. So there is some modernisation going on, and you could probably get some similarities between the bits of legislation. But I don't think they'd have to be identical given that it would just be too big. Just one applying to the charitable trusts at the time.

MR SEIBERT: One thing that we proposed is sort of making it clear that the commissioner of the ACNC has standing under state and state, sort of, charities or trusts Acts to – where there's an industry that's not a federally regulated entity, that the ACNC commissioner could use state jurisdiction to seek orders, et cetera. Do you have any views on that? Because there are obviously different provisions in different states about who has standing and how that's exercised and what's applicable, what's a trust.

MR MURRAY: Yes.

MR SEIBERT: Whether it's a charity more broadly.

MR MURRAY: Yes. I mean, that makes sense. I mean, I guess the question would be constitutionally can the ACNC commissioner do that. You know, it's not just a matter of just state legislation (indistinct). The constitution – is it okay for the – and I'm not a constitutional lawyer, but you know, do they have the power under their existing legislation, and can that legislation even give them the power to apply in that way in that state (indistinct).

MS ABRAMSON: Could I just – I'm interested in your views, and thanks Krystian. It would seem to me that courts of superior standing in any of the states can admit who they like. They can give them standing. So I wonder if the question's the other way around here. Whether it's not so much whether the ACNC of its Act would have standing, it's more that would a court admit it and it would be a strange circumstance where a superior court said we don't want to hear from the federal regulator. Because they hear from the ACCC and ASIC all the time.

MR MURRAY: Yes. And every jurisdiction's got slightly different wording.

MS ABRAMSON: Yes.

MR MURRAY: But in Western Australia, for instance, any person has standing. I think the ACNC probably already has standing if it's got - - -

MS ABRAMSON: Yes.

MR MURRAY: - - - constitutional power to make the application in Western Australia, then every other bit of legislation's a bit lesser. I think in New South Wales, any person with the Attorney-General's approval has got a standing. So again, if the AG was on board, that would be quite easy. And then with the other jurisdictions, you start looking at, well, interested persons.

Again, you know, you could see it would be quite easy for a court to get to the view that, well probably the ACNC is a federal regulator with an interest in its charities and an interested person beyond any member of the public. So they possibly already have standing over much of the state legislation as it is. And it's those sort of constitutional questions about have they actually got the power to make that application that's the issue.

MR SEIBERT: But just on this, is there – I think because there's the question of whether there's standing, but then there's the question about what's in scope. So say the Charitable Trusts Act in WA, the 2022 one, is that just charitable trusts sort of in that narrow sense? There's that New South Wales – well, it's a New South Wales case - - -

MR MURRAY: Yes.

MR SEIBERT: - - - that sort of said that, you know, just a general charitable corporation won't necessarily – the donations to it won't necessarily create a charitable trust. So there's the question about which types of entities would be in scope.

MR MURRAY: Yes.

MR SEIBERT: Like, is that also an issue here?

MR MURRAY: So I think you're talking about the Bread Institute (indistinct) - - -

MR SEIBERT: Yes, that's it. Yes.

MR MURRAY: - - - (indistinct)case. Which, I helpfully found there wasn't charitable purposes. There wasn't a charitable trust and charitable corporation there. There's a question about if you have – okay. You have a charitable trust, no one disputes that the Attorney-General can apply to deal with some sort of impropriety in the administration of that charitable trust. If you don't have charitable trust but charitable corporation, do regulators have that same ability? Can the Attorney-General apply there to the Supreme Court in the same way?

There's less agreement, but there's certainly cases like the Bread Institute case and other would suggest that, yes, a regulator can. Usually they're thinking of the Attorney-General there. Apply to deal – to the court to get an order to, you know, deal with whatever the – the wrongdoing's been in that charitable corporation.

Now, that might be an inherent jurisdiction of the court, it might not actually be under the bit of legislation because the regulator can just apply to the courts in their jurisdiction anyway.

MS ABRAMSON: That's kind of my point in that it would be – many, many years ago I used to be a litigation lawyer and we used to think about that a lot. The inherent power of the superior courts.

MR MURRAY: Yes.

MS ABRAMSON: They can ask for anyone to appear before them.

MR MURRAY: So there are, you know, it's not a settled position, but there are a number of good arguments out there to suggest that regulators should be able to apply to court to deal with those regulators, even for a charitable corporation, you know, outside that charitable trust.

MR SEIBERT: Would there be benefit to some clarity there? Because that's what - - -

MR MURRAY: Yes.

MR SEIBERT: Yes.

MR MURRAY: Yes. There would be. And then benefit to – well, do the Charitable Trusts Acts apply beyond charitable trusts to other – and do they apply their incorporated charities, you know, there's a bit of – they're called Charitable Trusts Acts, but there's uncertainty. Some of them, clearly, the language that's used is broader than just trusts. So potentially they actually apply, anyway, the charitable corporations, at least some of the provisions in them also. So getting clarity around that would be helpful.

MR SEIBERT: Because I can see a situation now where there's a registered charity with the ACNC that's a non-federally regulated entity, and the ACNC can't use its enforcement powers, but it deregisters it because it has grounds to do that, and whether a state attorney-general or the ACNC commissioner can use the state jurisdiction to do something to protect the assets will depend on whether it's a charitable trust or not and it looks a bit unclear.

MR MURRAY: Well, I was interested when I saw that in the draft report that I did – you know, what happens in the ACNC registers. Does that mean you're outside the charity regulation net and you can do whatever you want with your assets. So I think it's on public record. Co-operative Bulk Handling, which is a large agricultural co-operative registered as a charity, was proposing to demutualise some years ago, and the idea there being that all the members of that co-operative would then become shareholders. I assume based on the documents that were produced that would mean all the value that sat in that co-operative would then be held by the shareholders, you know, within the value of their shares, which they could potentially then sell on to someone else.

MS ABRAMSON: Although, you know, the tax office has lots of rulings about demutualisation and what you pay on it.

MR MURRAY: Yes. But no clawback. There's no tax clawback for charity tax concessions that you've got over here. So I guess there could be an impact for you as a – you know, an ultimate shareholder in that organisation. But we're a bit odd in Australia. There's no tax clawback, you know, most other jurisdictions have something like that. So when you cease being – you know, so the ACNC revoked your registration as a charity and then that would also cause your tax endorsement to cease as well, and so many places then say, right, there's a clawback tax that applies at that point so you pay back - - -

MR SEIBERT: (Indistinct words.)

MR MURRAY: Yes.

MR SEIBERT: And so what happened in the case of CBH?

MR MURRAY: Well, they haven't – they just haven't done that. But they've been talking about it for years, and who knows whether they'll get there, but they're, you know, producing information to members suggesting this is the direction that we should go in.

MS ABRAMSON: See, part of the thinking with the attorney's – or having this pathway for the ACNC that it could appear in a state court, it also would bind together the way things operate, because it would be – and it's not for us to put words in people's mouths, but it would be very unusual for someone to seek standing in a court without telling the attorney, 'I intend to seek standing.' I mean, it's a common legal courtesy. And then in this regulatory system, then it would prompt an attorney to think, 'Oh, okay, this is – you know, what's the problem here.'

So it was both a mechanism for elevating things – not saying that states don't pay attention, but it would elevate it so that was partly a mechanism type issue. But I did want to circle back, because one of the things you said was that notwithstanding that a court of superior jurisdiction can admit who it chooses to admit that there still might be an issue for the ACNC under its own laws as to whether it could do that. I'm quite interested in that.

MR MURRAY: So – well, so this is a constitutional law – well, there's two questions. One, was the legislation (indistinct) that's not a constitutional law question. That's just statutory interpretation. So I guess for the ACNC it's got power to, you know, do all things necessary to facilitate the legislation it has. Does that include applying in a state court for wrongdoing, you know. Probably there's been some breach of the government standards as well, but that's not what you're going to be pursuing in the state court.

MS ABRAMSON: But if you're not covered by the governance standards which would be the case for entities.

MR MURRAY: That's right. To the question around that, there's the legislation to give them the power to do that, maybe it does, and then there's the constitutional question, well if the legislation gives them the power, well constitutionally could you even enact that legislation in the first place or is that the Commonwealth moving beyond the heads of power that it has. And I don't know whether the tax cow, for example, would permit those sort of applications, which is well beyond the tax context, for instance.

MS ABRAMSON: No, that's really – I feel bad, Ian. We've got you in this pincer movement. I wanted to ask you something else, but Krystian, did you have any more questions on this? I'm sorry, Ian.

MR SEIBERT: I've got something about PBIs, but we can come back to that, yes.

MS ABRAMSON: Yes. I wanted to ask you, Ian, and thank you for your forbearance here, but basic religious charities, like, our report says quite clearly, well, we don't think that there should be an exemption and we explain why. Do you have a view about it or do you have a view as to why the policy should mean that they get an exemption because we could not see a policy ground.

MR MURRAY: Yes. I mean, I don't have strong views on basic religious – that's my, you know – religion and charities are not my area of expertise. I guess I come at it from the perspective of, well, there should be a sort of similar regulation for all charities unless there's some good reason why we have a different regulation for particular types of charities. And from a religious context, the only reason I can see is once the enforcement powers of the ACNC include removing responsible persons and replacing responsible persons you have the issue about, well, why should a secular regulator get to put in place the person who gets to make the illogical interpretations for the organisation. So I guess that's sort of one area where I can see maybe some sort of adjustment to governance rules should apply there.

MR ROBSON: And in this context, do you think there would be a solution to that in that you could carve out that specific, you know, replacement and appointment. But then I guess, you know, the question would be, well, why would you want to do that for certain, you know, just organisations and not others who aren't BRCs. So maybe just comment on that.

MR MURRAY: I think that's right. I mean, I think – my concerns, anyway, would be addressed by limiting – or what are the enforcement powers the ACNC has got to respond, you know. I mean, why should, you know, reporting and things like that be limited in the same way. I can't see the reason for that. But I agree, it could just carve out those particular enforcement powers that were problematic. And then, I guess, the question is, well, how we define basic religious charity, does that mean that the more theological activities are contained within those basic religious charities and perhaps less so in religious charities that aren't basic religious charities, you know, in which case we might be less worried about replacing responsible persons in those other religious – I mean, I don't know if that's necessarily correct, but I'm just sort of thinking there's possibly an argument for that.

MS ABRAMSON: There's also a bit of – in a way, it's sort of an anomaly, but of course, it's a design feature. The ACNC commissioner can remove a responsible person without a court

order, which is unusual because (indistinct) required to go to court. So any comments you had on that end.

MR MURRAY: Yes. So I mean, obviously, a court order provides an extra safeguard. The administrator's not going to go off on a frolic and just make a change, and so you might be a little bit more - - -

MS ABRAMSON: You have to have solid grounds in an affidavit to convince the court.

MR MURRAY: That's right. It's a separate arm of government then reviewing it, so it's not the executive government getting in and mucking about (indistinct) the theological leaders are in a religion, you've got to get a court order. So I think that's probably some degree of protection, whether that completely deals with people's concerns, I don't know, because you still have government potentially sort of enforcing or, you know, forcing upon an organisation a leader that they might not have selected themselves.

MR ROBSON: On the other hand, you know, if there was some sort of criminal act.

MR MURRAY: Yes.

MR ROBSON: Or workplace, health and safety, then that, you know, the same issue arises and we don't have an exemption there.

MR MURRAY: Yes.

MS ABRAMSON: I've had – on a different – and I should add, it's not because we think that there are current problems, we're just exploring the policy of, well, what's the policy rationale, if you did this, how would you do it. Just another issue is we've got some recommendations about superannuation and making that process an easier one, and one of the issues that might arise is in an estate, when assets are within an estate, obviously there's a whole branch of law that deals with how you're supposed to deal with things, what the protections are. Do you have any views about what we're saying about the superannuation, just making that nomination process easier?

MR MURRAY: Probably not – yes, I won't comment on superannuation because that's not really my area of expertise, so, yes.

MS ABRAMSON: It's more the inbuilt – I understand that, Ian, but there are inbuilt protections within estates, and you know a lot about charity law and that's not unrelated, so just outlining some of the protections that might be there around things like testamentary capacity and things like that, and what happens in those circumstances, that would be helpful.

MR MURRAY: Yes. I mean, again, that's probably - - -

MS ABRAMSON: Outside your – yes.

MR MURRAY: It's outside my scope, really, yes.

MS ABRAMSON: No, that's all right, because we have other things which are exactly in your scope. Krystian, did you want to - - -

MR SEIBERT: Yes, just on PBIs and the point you make in your submission around PBIs that may be endorsed as a PBI but then have sort of advancing religion as a charitable purpose as well based on the most recent commissioner interpretation statement there. Is there any reason why under sort of our DGR system proposals, putting to one side whether you legislate a PBI definition or not, that couldn't continue? Because, yes, maybe just if you could elaborate on your thinking about how it would work now under that commissioner interpretation statement and whether our DGR system proposals raise any issues for that.

MR MURRAY: Yes, so this is the whole sort of purposes activities and, you know, I understand why you're using the terminology of charitable activities in the report, and I think the proposed approach of saying, well your donation concession is based on your charity purposes, and we'll use those categories but then we're going to exclude certain activities. I think that all makes sense and that can sort of help deal with that purposes and activities crossover.

In the PBI context, I mean I guess the thing would be if you're a PBI. So you might have PBI and religious sub-categories, if you can then engage in any of your PBI activities without having any of those being excluded it probably wouldn't matter that you have the religious sub-category as well.

So I guess you're going to have all activities for religious sub-category excluded but presumably you could put some sort of override to saying, well if it's just PBI and religion, we sort of trust that if you've got through the PBI test, we're not so worried about the fact that you're conducting religious activities because those will be religious activities in support of your PBI purpose, so we won't exclude anything there.

MR SEIBERT: You'd have to meet the requirement to be a PBI (indistinct).

MR MURRAY: That's right. But that could probably deal with it. But I guess the only lingering concern would be what about cases like global citizens start suggesting this question about, well, do you have one purpose as a PBI. Can you have multiple purposes. You know, they've got to be minor maybe.

MR SEIBERT: Which goes to, I suppose, one of the questions, too around the statutory definition of a PBI or not and we do have a recommendation around that in that draft report we don't say that there should be sort of an expansion of PBIs to new cause areas and at the moment, that the sort of, it's more or less where things are at. But one of the challenges in that space is, like, you know, this question around multiple purposes or how much advocacy is acceptable and not of prevention.

Are they not policy judgments that a regulator and the courts shouldn't be making, that a legislature should be making.

MR MURRAY: I think, I must admit so when I read this, I thought well you're trying to do what the Charities Act, sort of largely purported to do. Let's sort of crystallise the existing more and avoid policy choices. I think that's difficult. I think if what you're proposing is right, let's confront some of those policy choices and make them. I think that would be helpful because otherwise we are just stuck with the regulator and the courts making those choices.

They're probably not the best place to make choices about, well, to what extent are advocacy activities okay. Should preventative activities be permitted for PBIs. It would be much for better legislature to make those policy decisions. So if we did have a definition and that it picks

up on the (indistinct) definitions, says all right and you know clarify certain matters or goes down the Charities Act path of just let's put the whole definition in the legislation.

MR SEIBERT: It probably would clarify certain things inevitably.

MR MURRAY: I think that would certainly help to clarify those things because there's wildly different views out there at the moment as to what's permitted or not. I don't think people are in agreement, and it sort of changes a bit depending on who the Commissioner of the ACNC is to what the regulator's view is and that's probably not a good thing.

MR SEIBERT: That's interesting. There are different views. The view that we don't have is of the legislature and the government about what the policy intent behind this is and it's a little bit like as if we had the term corporation just defined through the common law and no legislative guidance about it and it could just evolve over time and, like, whether that's appropriate or not to not have any kind of policy judgments made about some of those trade-offs.

MR MURRAY: Yes, I mean I guess the reason that, you know, we use the term charity even though it's defined now based on the common law is the legislature, which is to avoid making those policy choices, for good or bad reasons. Quite difficult choices. Maybe in the PBI context the same thing would happen because there's going to be some pretty hard questions asked given all the tax concessions that flow with it.

But, you know, if you've got the courage there to actually make those policy choices that would be wonderful to get that clarity.

MR SEIBERT: But some pressure would come off the definition under our proposals given the expansion of eligibility for DGR status for say the advancing social and public welfare sub-type. But you'd still have the FTB concessions that some organisations would want.

MR MURRAY: Well that's right. For some organisations if it's just the DGR, less of an issue. I think for many PBIs it's the FBT concessions that are really sort of the main reasons why they want that definition.

MS ABRAMSON: I have one final thing. It probably won't be in your scope. I feel bad enough in asking you out of scope questions.

MR MURRAY: No, that's all right.

MS ABRAMSON: Online platforms. You know that's the way that people are giving a lot into the future, especially individual consumers. And at the moment it's a sort of a self-regulation and obviously they have corporate reputations, but looking into the future is there any, sort of, guidance you'd give us about thinking about those type of platforms?

MR MURRAY: So only some pretty general comments probably.

MS ABRAMSON: Yes.

MR MURRAY: But I mean obviously if they're online platforms then it would be the same all around Australia, so obviously having one set of rules that applies would be preferable rather than it being jurisdiction by jurisdiction specific.

MS ABRAMSON: Yes.

MR MURRAY: And I guess sort of the other concern is to what extent are people actually going to, you know, actually read most of what's on the online platform that they donate to. If we think back to the Celeste Barber fundraising, you know, I think many people probably gave based on the sort of comments that Celeste Barber was making about where the funds were going to go.

MS ABRAMSON: Yes.

MR MURRAY: And we all know that the funds did not go to that broad range of – you know it wasn't outside New South Wales for instance. You know, it didn't help animals. It was just sort of the firefighters themselves.

So I think there would have to be, for the online giving, you know almost like sort of the ACL principles really thinking well, who's the audience who's receiving these requests. What's motivating them to give. What are the reasonable expectations they're going to have when they donate money to this online giving platform.

MS ABRAMSON: So it's really like a consumer thing. It's an ACCC or ACL type production.

MR MURRAY: Yes, I mean probably the ACL potentially applies to some of that activity anyway. But it does strike me - - -

MS ABRAMSON: Some of it's hard though because if it's an individual you're giving to an individual in trade and commerce. Like there's got to be a hook - - -

MR MURRAY: No that's right. I (indistinct) professional fundraisers who might be using it then they would definitely be in, but you're right if it's sort of individual to individual giving and I guess the worry you have is probably some of this sort of sits almost a bit outside the charity scope.

MS ABRAMSON: Well that's exactly it and the question is we're forward thinking in – well we're forward-thinking anyway – but the regulatory chapter. So you've really got to think about, well, what's going to be fit for purpose.

MR MURRAY: Yes.

MS ABRAMSON: And one of the difficulties is until, and you don't want this to happen. But until there's a really serious problem people are going to say, well it's self-regulating. It looks okay. They've all got reason to do this. And bearing in mind that most of the companies that offer this, or I think all of them are not onshore Australian regulated companies.

MR MURRAY: Yes.

MS ABRAMSON: So that's kind of why we've been asking about it.

MR MURRAY: Yes, and it's a bit odd when you think about the financial information disclosure requirements that apply to companies that are trying to seek money from sophisticated investors compared to the sort of, you know, wild west of regulation that applies to individuals seeking money from others.

MS ABRAMSON: No. Look, thank you for that and also just thank you. You've given enormous assistance to the enquiry.

MR SEIBERT: While we have Ian, just on sub-funds. You mentioned some research that you've done in the United States context around, sort of, intergenerational justice considerations in the case of donor advised funds. Do you have any insights or learnings from that that could be applied in the same context here.

MR MURRAY: Yes. So obviously it's an ongoing bit of research so it's with some people in the US who've gone and collected the policies that are applied by the sponsoring organisations. So the charitable trust or corporation that offers the donor-advised funds in a fidelity swap et cetera. But a bunch of others.

So they've sort of done a bit of a cross-section of about 150 sponsoring organisations. Some are large. Some are small. Community foundations, religious sponsors as well as the large national sponsors. And we've just been looking through these policies to work out well what's in there that addresses some of the intergenerational justice sort of questions that come up.

Just to sort of see, you know, are they self-regulating effectively. To what extent are they actually thinking about these principles, and we were a bit surprised to find that actually there's quite a bit in there.

I'd sort of assumed there wouldn't be very much at all, but they have policies dealing with inactive accounts for instance. So if you don't make distributions out. Usually it's no distributions over X years, then the sponsoring organisation under the policy steps in and starts forcing distributions out and there's some different options for how they can do that.

But they also have policies dealing with endowed giving within that and putting some limits on endowed giving that you can give. You know, so does your money get locked into giving to a particular organisation forever or can the sponsoring organisation step in and sort of change that over time.

So those internal policies were actually quite – in the research we're doing we're suggesting some improvements on those. So, yes, most of the inactive account policies are based on quantum. You know an actual amount. You know, if you don't give \$200 for instance. But that completely ignores that it could be, you know a three, four, five-million dollar (indistinct) so probably a proportionate test would be better.

So we're making some suggestions like that. But there's a lot in those policies that's actually quite helpful. Even including a reminder that the organisation itself has got a variance panel. So it can change anything. Doesn't matter what the donor adviser suggests. There's a reminder there which I think is tax-driven that the sponsor (indistinct) donation can just step in and change anything it wants. Again there's a question about, well they don't really seem to have any policies in place that force them to think about should I apply this variance? How and when should I apply it. So again we're making suggestions about that.

But they really have got some sort of nuts and bolts in there that could be used to actually build up a self-governance mechanism that is used by that sponsoring organisation to think about how much could be saved for the future or not.

And some of them also have whole of organisation minimum distribution requirements. So if they don't meet – you know – five per cent that's commonly used then they can choose to just step into donor revised funds that have themselves in that five per cent. And, again, force distributions out. So that sort of seemed like a useful thing also.

MR SEIBERT: Because we've got recommendations around sort of enhanced reporting regarding sub-funds but I suppose taking this a little bit further based on what you have seen in the US. You could also just have an obligation to have a policy about how you administer some funds - - -

MR MURRAY: Yes.

MR SEIBERT: You know, you can determine how you accept that but have a policy and make it available or something like that.

MR MURRAY: Well, that's right. And you could look at these policies in the US which are based on the council of foundations which obviously, you know, represent the industry. It's going to be quite industry favouring, but it's things that have been sort of tightening up. It's expectations over time, what goes into these policies.

MR SEIBERT: Mm.

MR MURRAY: Or even in England and Wales, you know the reporting requirements around – accumulated, you know, around reserves. If you've accumulated funds you've got to report back on why you're doing that and say how long you're accumulating that. It's just that there can be some reporting obligations to get put in or expectations, you know, reporting on policies that you've got in place as well.

MR SEIBERT: Yes, thank you.

MR ROBSON: Thanks very much.

MR SEIBERT: Yes.

MR MURRAY: That's all right.

MS ABRAMSON: Thank you.

MR MURRAY: Yes. Just let me know. Feel free to get in touch if you've got any other questions.

MR ROBSON: Solve all the issues.

MR MURRAY: I don't envy you your task. Thank you.

MR ROBSON: Yes, thanks. You're great. We'll take a break and come back at 1.15. We've got a bit of time.

LUNCHEON ADJOURNMENT

RESUMED

MR ROBSON: All right. We'll get started. Get underway. So welcome to participants from the Minderoo Foundation. If you could just state your name for the record and the organisation will be fine and then if you'd like to make an opening statement we're happy to hear that, and then we'll get into some questions.

MS J. PALUMBO: Okay, thank you. So my name is Jenna Palumbo. I'm the Executive Director of Effective Philanthropy at Minderoo Foundation and I am joined today by my colleagues, Ollie Hanson, from our Partnerships team, and Cronje Wolvaardt from our Impact Investing team. So Minderoo Foundation appreciates your invitation for feedback on the draft report, 'Future Foundations of Giving'. In participating in this process our goal is to highlight key areas and trends we believe warrant further research and to make recommendations for strengthening the philanthropic ecosystem.

As Australia's largest philanthropy Minderoo is committed to strengthening the capacity of our peers and our partners to create, accelerate and scale measurable impact. We do this by contributing infrastructure, tools, standards, and skills to build the evidence base for our sector and partners, fostering a measurement culture through which we understand impacts, learn and adapt and share knowledge.

Through our Strategic Impact Fund and Catalytic Capital Fund we leverage the spectrum of capital to accelerate and scale our impact and unlock business as a force for good and by building partnerships that deliver benefits for society and natural eco systems.

We believe it is up to government, philanthropy and the not for profit sector to come together to address some of the most prevailing societal issues facing Australia, with each playing a unique role in social innovation, strengthening local communities and building social capital. Minderoo sees its role as a convenor, collaborator, supporter, investor and partner, working with business, government and philanthropy to advocate for the importance and impact of giving in society.

In our response we have highlighted the areas that we believe are the most critical to be considered as part of the final report, ahead of it being delivered to the Australian Government on May 11.

Minderoo supports reform to improve the deductible gift recipient system and removing the \$2.00 minimum threshold for tax deductibility to incentivise giving. We also support a stronger ACNC and calls for more enhanced disclosure and reporting on sub-funds and corporate giving.

Today, however, we wish to take the opportunity to highlight specific paths of our submission, including the transformative opportunities presented by data and social impact investing, in increasing the effectiveness and efficiency of giving in Australia.

Let's start with the potentially transformative power of data. Firstly, we would like to point out that the largest foundations in Australia not only have the funds but also the expertise to make sense of the large data sets that are currently held by the Australian Government agencies. These include researchers, data scientists, analysts and experts and impact management to name but a few.

Whilst we have the expertise we often lack access to the data to deeply understand the issues we are tackling, to understand the landscape of existing of service provision. And to understand the

existing services and funding, to know which service providers are better – are achieving the outcomes or evaluates the effectiveness of our own funded programs.

Minderoo is supportive of enabling access to comprehensive data linkage platforms, including data from organisations such as the ATO and ACNC to better understand the not for profit and philanthropic sectors. As an example we applaud the work of People WA, administers through the WADPC. People WA's platform connects the de-identified data from various government departments, including communities, education, health, justice and police.

By providing a secure research environment, researchers and not for profit organisations can harness up to 75 million unique records containing current and archival data for the first time. Federally, unlocking linked data and administrative sets will enable evidence-based decision making and will improve the effectiveness of philanthropy and ultimately benefit the Australian public.

Finally, in the draft report you would also have noted that the Commission was not reviewing social impact investing in this inquiry. We believe this is a missed opportunity, given there are hundreds of millions of dollars available to be deployed into communities in this way.

We understand the reason for not reviewing this in the draft report, was because investments sought a return and that there were concurrent government reviews that were looking into social impact investments. While impact investments are based on financial metrics, they are equally based on impact metrics and generate significant benefits to communities, as well as substantial costs savings to governments.

At Minderoo, we consider impact investing to be a key part of our impact tool kit to scale and accelerate our impact and make the most efficient use of our capital. As such, we strongly support measures to enable the growth of social impact investing. This should include educating the market, both philanthropy and the not for profit sector of the benefits of utilising the full spectrum of capital. From grants to concessionary, blended and first loss capital, to commercial investing that drives measurable impact.

Philanthropy has a key role to play in developing the social impact investing market in Australia, including by ensuring for purpose organisations, have access to appropriate forms of capital to innovate and scale. While some for purpose organisations may be registered as charities, and therefore able to secure grants and donations, many operate as social enterprises through mission-locked private companies.

These social enterprises are unable to secure grants and donations, and at the same time their mission lock makes it challenging to raise mainstream capital. Foundations are well supported and suited to support impact for organisations by addressing this capital gap. However, most foundations are limited to undertaking activities which are charitable at law in Australia and for the public benefit.

As such, foundations are unable to provide capital to mission locked social enterprises where there is a risk of non-incidental private gain. For example, by founders. This is notwithstanding there may be significant impact and public benefit generated and that the social enterprise is unlikely to be able to raise mainstream capital due to its mission lock.

Given the potential for foundations to fill this capital gap, Minderoo Foundation would welcome guidance on how foundations can provide capital to social enterprises in circumstances where

there may be some gain to individuals without risking being perceived as providing a private benefit. Minderoo would also encourage a broader interpretation of the meaning of private benefit to acknowledge some private benefit may be necessary to achieve the broader charitable purpose and public benefit of (indistinct) a capital market to support social enterprises.

Another approach to tackling the challenges of investing in social enterprises is to create a distinct legal entity that recognises their unique features such as the UK's Community Interest Company. For example, the inclusion of an asset lock requiring the social enterprise's assets to be permanently used for the social objective is one way to provide impact investors, including foundations, with comfort around potential private benefit. Such a structure, in combination with clear guidance from the ACNC, would enable more foundation capital to flow to social enterprises.

Finally, given the structural barriers and challenges faced by social enterprises, Minderoo supports the impact investing task force recommendation to establish a foundation for impact investment. The role of this foundation would be to provide social enterprises with access to finance as well as grants to become investment or contract-ready. Minderoo is interested in seeing government support ongoing and joint efforts in impact investing market development, noting that Minderoo can and is willing to deploy capital to support these activities.

We would like to take this time with you to discuss the role of philanthropy in supporting the development of social impact investing in Australia and the opportunity for data to significantly increase the effectiveness of giving.

We thank you for the opportunity to share our submission and we welcome your questions.

MR ROBSON: Thank you very much. I might open with a couple of questions on data and then hand over to Krystian or Julie.

I wonder if I could get your views on the recommendations we do have in the report on data, so on volunteering – on Aboriginal and Torres Strait Islander volunteering and also on data for corporate giving. What are your views on those specific recommendations and then we might come to your ideas on data more generally.

MS PALUMBO: So on the corporate giving, Minderoo does support the Commissioner's draft recommendation 9.3 advocating for the Australian Government to mandate listed companies to publicly disclose itemised information on their donations, to entities with deductible gift recipient status, emphasising the benefits of enhancing accountability, strategic alignment, impact assessment, state Calder engagement and benchmarking of corporate philanthropy. Can you remind me of the other (indistinct)?

MR ROBSON: Yes, the other one was on volunteering and the lack of good data that we seem to have on that and more frequent data, more generally and on volunteering and then specifically on volunteering within Aboriginal and Torres Strait Islander organisations. We don't seem to have much data around on the - - -

MS PALUMBO: I think of the general principles, access to data to deeply understand the issues that we're trying to tackle is something that we would support, as we take a very – an evidence straight based approach wherever we can, noting that data can also include data from communities as much as government administrative data sets.

MR ROBSON: Yes. And then you mentioned ATO data and I can see there might be barriers there to many – what is the barrier to accessing ACNC data that we see, specifically?

MS PALUMBO: I think it's probably the type of data, so we want to understand metrics to understand the impact of organisations.

MR ROBSON: Right. And that's not – and ACT doesn't collect or report that

MS PALUMBO: No.

MR ROBSON: Yes.. Okay, Krystian?

MR SEIBERT: Thanks for joining us and for your submission and contributions. Do you want to step back a bit to get an idea of the Minderoo Foundation's view of sort of the role of philanthropy versus government, sort of the different roles or not and then a bit on sort of collaboration between them as well? So yes, if you could sort of expand upon your views in that context, yes.?

MS PALUMBO: Sure. We play many roles. But I think as a philosophy I think philanthropy has a really important role to play in the innovation stakes. I mean, philanthropy can be more nimble and can also fill the spaces that government isn't filling, which may evolve over time. So I think they are two critical roles for philanthropy. And the second part of your question?

MR SEIBERT: So, yes, how does that interact sort of with the role of government?

MS PALUMBO: I think there's a really – I mean, it's such an important role that they also connect and they dovetail because I think philanthropy can play a real role in testing – innovating – trying new things, but it has to work hand in glove with government and this again comes to the data point because we want to be able to work with government to access data sets, to work and understand are the services that we are either funding or providing being effective because ultimately, we are wanting to see those programs potentially become part of policy or government-provided service provision, to having that deep collaboration from the outset is a very helpful way for government and philanthropy to partner.

MR SEIBERT: And does Minderoo currently already sort of partner or collaborate with government across the various cause areas where it is active?

MS PALUMBO: Yes, wherever possible, and I think there are some great examples of national collaboration happening at the moment, for example, the investment data for Australia's children is to be applauded and I think that's a wonderful way to see philanthropy and government coming together and also taking a very active view thinking about what is the role of data in supporting that collaboration.

MR SEIBERT: Because yes, in that context whether Australian investment data log or in other areas that you are engaging with government, what do you see sort of as the kind of – there's the data point but also more broadly too, what do you see as some of the challenges or the barriers? You do sort of allude to something in your submission around sort of philanthropy's role as to innovate, take risks, but there's the very real prospect that it could lose motivation to play this role if we continue to take up risk, prove it and then nothing happens because of that. So could you expand upon that and any other challenges that you sort of come across when you are engaging with governments?

MS PALUMBO: I guess to expand on that, I think that if we are talking about that role of philanthropy tests innovates, builds the evidence base. If that is then not translated into ongoing or sustained service program, that is, I guess, the motivation for flat list – to see impact and to see the scale and government is ultimately the best scale provider.

So I think having that collaboration from the get-go and then perhaps an understanding that philanthropy-funded services if they are effective, are then translated into ongoing service provision through commissioning would be, I think, a really good development.

In terms of the barriers, do you mean specifically in relation to data?

MR SEIBERT: Not so much in data, in terms of the engagement that you have with government and the collaboration. Do you see any broader barriers or challenges when you are sort of engaging with officials or that sort of thing?

MS PALUMBO: Not specific challenges. I think it's just to find the right areas of policy alignment that move that matter very obviously to government and to philanthropy.

MR SEIBERT: Do you find that government has a good understanding of what the role of philanthropy is or isn't?

MS PALUMBO: I would say mixed.

MR SEIBERT: Yes. And that's fine, you don't have to say, you know, which departments or not, but in what sense do you think the understanding is mixed? And like what are some of the sort of misconceptions you might see there? You don't have to name names, but just to understand sort of what this is – because this is central to the core of what the different roles are and how they can interact.

MS PALUMBO: Yes. I guess, are we seeing the role of philanthropy maximised? And at this stage, perhaps not, in that really deliberate way of using philanthropy to test and innovate. I don't know that that relationship has been cemented and so it would be nice to see, you know, that being more deliberately considered.

MR SEIBERT: Yes.

MS ABRAMSON: I have a few questions. The first one I wanted to ask you about is our proposal around the Aboriginal and Torres Strait Islander Philanthropic Foundation and sort of the genesis of that was we've got an engagement strategy working with Aboriginal and Torres Strait Islanders and part of it was that certain groups find it very difficult to access philanthropy, so that was part of the thinking behind it.

So I am interested in two things. Some of the detail around what you think of the foundation, which you have kindly put in your submission, but also lessons along the way that Minderoo has encountered in working with indigenous communities?

MS PALUMBO: Well, to address your first point. Minderoo does support a new Aboriginal and Torres Strait Islander Philanthropic Foundation being set up should there be sufficient evidence through your consultation that a new entity is required. This could take various forms, including methods that empower local decision-making and decentralised fund distribution, such

as regional sub-funds and I just wanted to note that should this entity be established, Minderoo would be interested in exploring ways to support its success including funding, capacity building and complementary funding approaches.

MS ABRAMSON: Can I press you – thank you for that – press you a little bit more on that? So, do you think that there would be a role for Minderoo there? You wouldn't see the Foundation as crowding out opportunities for other philanthropy – because we have had that also put to us. To say, 'Well, if they're in the field then why would philanthropist A want to contribute?' So I am interested just in general terms of how Minderoo would think about this.

MS PALUMBO: I think we would consider a complementary option in some instances. Minderoo and other foundations I am sure, would continue to maintain a direct relationship with communities where that was strong. In other instances where an intermediary vehicle would have advantages, then you might work through that as well. So I very much could see it as a complement.

MS ABRAMSON: Thank you. And going back to – because I'm famous for this – so I am sorry about this – but I did ask another question as well is if you wanted to share any of the things that you've learned along the way, with dealing with indigenous communities that made philanthropy a better fit for the community. So any – and we did – when we went with you we did have a conversation about that but we're just interested in that.

MS PALUMBO: Did you want to speak to that one?

MR O. HANSON: I means it's always important to be kind of community led in anything that we do. So that's always an intention of ours and something that we would continue to kind of progress with, with our work going forward.

Yes, I think talking to the kind of the establishment of this foundation we would very much want to see that the community has endorsed that concept as a – like a centralised vehicle of – or whether it might be more appropriate to have a more localised model. But our going forward, yes I think we have always endeavoured to have that deep consultation before anything begins. Sometimes in the past (indistinct) we may have – you know – launched into work. That could have benefited from (indistinct) consultation and that's something that we continue to develop.

MS ABRAMSON: So when we think about community and we don't have views on this. We've said this is this thing that we think it looks like but we're thinking about it a bit more and we'll be consulting much more with indigenous people. But you mentioned 'community'. So is it something that needs to be developed within community, as opposed to having an organisation which says, 'Well, these are the projects that we're going to do?' So do you see it more as a bottom-up type process?

MR HANSON: Yes. I think so. And we worked in lots of different communities, indigenous or otherwise.

MS ABRAMSON: Yes.

MR HANSON: And having that deep connection and trust building at the outset is critical. So whilst there's a role and benefit for having a kind of a top-down approach it's also, you know, complementary to have that bottom-up community base.

MS ABRAMSON: Thank you. So you would see – I think you'd said it before that Minderoo would be complementary towards the foundation. It wouldn't be something that you'd say, 'Well, okay. That it's only going to have partial government funding by the way. But okay, well that's been funded by the government. We're not interested in that.' That would not be the approach that you'd take.

MS PALUMBO: I think we welcome opportunities to collaborate.

MS ABRAMSON: Yes.

MS PALUMBO: On co-funding, whether that's with government or other philanthropies where we have aligned objectives.

MS ABRAMSON: Thank you. Krystian?

MR SEIBERT: Yes, I might just clarify with the Aboriginal and Torres Strait Islander Philanthropic Foundation, I think that it's – the idea behind it is that – and it's in the draft report on page 335. It's also – it's about sort of strengthening capacity of communities to build partnerships for philanthropic networks, because there isn't really anybody that does that right now. We identified a gap there. But then it's very much about supporting new and existing, giving vehicles and – all their diversity. So it's not that this would be the self-determined funding body and that's it.

MS PALUMBO: M'mm.

MR SEIBERT: It would be a capacity building entity that has the broader role sort of – with any different – giving vehicles and structures that may grow into the future to flourish. Because I think – yes – I think some stakeholders might have seen it as a sort of a single entity that takes and does all of that. But it's not. It's about actually reflecting that diversity as well.

MR ROBSON: But the question on – your points on social impact investing so – and where to draw the line – I guess. And I guess the point we would make is – on this – would be well, if you're a charity with certain obligations that you have under the law and then you get special treatment in terms of tax deductions and so on, and – you know – the price for doing that is that you're not allowed to make a profit or private benefit. So, I guess the question is then – you know – given that there is this tax payer's support in the form of special tax treatment and income tax deductions and so on. What would be the case then for saying – well, you know – yes, you've got those over here but then extending it to an entity which – you know – is as you've said partially private benefit in the form of social impact investing. Because that's really the crux of what we're talking about here and there has to be a line drawn somewhere, and the line at the moment is a pretty bright line in the sense that - - -

MS PALUMBO: Yes.

MR ROBSON: - - -you can't – you know there's no private – and, in fact, this had a lot of report talking about – well, we shouldn't have DGR if there's a high incidence of private benefits to donation, because otherwise you just see – you know – a tax payer is coming in and subsidising a private transaction between two entities. So I just want to get your thoughts on that.

MR C. WOLVAARDT: Thank you for the question. So it's not about the foundations getting any kind of benefit. It's about some of the organisations the foundations can support on their social enterprises potentially having incidental private benefits.

The challenge we have is as Jenna mentioned earlier as any social enterprise that it's not charitable, a foundation currently cannot give any money to them if there's not – if there's any risk of incidental kind of benefit. Whereas, a lot of these organisations of social enterprises are not charitable. They are Pty Ltds but their mission locked and they're delivering public benefits but they can't get funding – mainstream funding – because of that mission lock. But they also can't get funding from foundations.

MS ABRAMSON: Can I just interrupt? You've mentioned 'mission lock' quite a lot. I think I know what it means but could you clarify that for us?

MR WOLVAARDT: Yes. So it's where, for example, they say 'We are going to focus on one particular area of impact and that is what we will do irrespective of what directors we have. Irrespective of the change in shareholding. We will continue to deliver that benefit. So you put into your constitution, thereby the governing structures that you lock you into doing that particular mission.

MS ABRAMSON: Thank you.

MR SEIBERT: Just on this very quickly. Do you have advice about this? Because I think putting sort of ancillary funds to one side, because they can only give grants to item one DGRs but say, you know, I understand Minderoo is a specifically listed item one DGR. So where is the issue? Is it under State charities law? Is it under sort of the tax laws? Because, you know, my understanding is that you can give funds to an entity even if it is a full profit entity. If that's how you're furthering your charitable purposes. So where is the actual crux of the issue here? Because thinking about where the policy levers could be. Yes?

MR WOLVAARDT: So the challenge comes in that every time you grant money under the Charities Act - - -

MR SEIBERT: M'mm.

MR WOLVAARDT: - - -you have to do – charitable assessment – charitable purposes assessment and that constitutes the charitable benefit. But it puts here because there's a public benefit but also the private benefit. So you get some cases where there is private benefits and then from a risk adverse perspective it's not possible to give them money, because then you could be in contravention of the Charities Act. Whereas the Charities Act talks about the fact that if there's any private benefit then you're not allowed to give that money because you're in contravention of your existing legislation under which you're formed.

MR SEIBERT: Just let me think if you could provide sort of – on notice – about this because - - -

MR WOLVAARDT: Yes.

MR SEIBERT: - - -yes, to understand the exact issues that would be helpful.

MR WOLVAARDT: Yes. Absolutely.

MR ROBSON: Yes. I mean we are interested in social impact investing for the purposes of this report but only to the extent that it interacts with charitable sector and if there were government policies to influence – one, how your social impact investing how that then might impact the charitable sector. So that's where we – we're interested in that interaction. But we did, as you said, make the specific judgment that while there's other things going on and it is other processes until we're having to vote it along. And we'd be interested in hearing about – you know – to the extent to which social impact investing might crowd out conventional forms of philanthropy, or crowd in, and how that might work. So that's – yes, if there's any reflections on those again if you could get back on that we'd be interested in hearing about that.

MR WOLVAARDT: Yes.

MR SEIBERT: I've just got a question around digital capability amongst charities. And I have seen the comments in your submissions we have on page 13 around digital transformation around then. I suppose the broader context here is that there's sort of we're looking at what the role of government can be in terms of supporting philanthropy, building the capability of charities but it's also a unique situation that there are – that there's funding within philanthropy to do many of these things as well. So when we're looking at proposals we're also assessing is there a role for government? Is there something that philanthropy could do itself? And I think that that's something sort of – you know – certainly we've considered in the case of say National giving campaign where however we can do things itself. It's got the resources. So say on something like digital capability building, is that an area where sort of the Minderoo Foundation is already active? Or in other areas of capacity building within charities itself already?

MS PALUMBO: Increasingly, we're thinking about more than funding. So one of the other ways that we contribute both to our partners and to the sector more broadly to build capacity and so we will be thinking about digital as part of that. To your point about what are the ways government and philanthropy can work together, I think as with many things, it's how we do it together and how we best support the respective roles that each party can play.

So within digital transformation it would be an interesting thing to explore more. What could government do? What could philanthropy do to support that? And just explore where those boundaries would be to the best effect.

MR SEIBERT: And then in an in-principle sense would the Minderoo Foundation have an appetite to sort of explore those kinds of collaboration and engagement opportunities with government if they had an interest in this area as well?

MS PALUMBO: Yes. I think we do have an interest in a strong resilient sector and digital capacity is obviously a part of that.

MR SEIBERT: Okay.

MR ROBSON: And just going back to the data and digital – well, the data question - - -

MS PALUMBO: M'mm.

MR ROBSON: - - -is it more – or access to the data is obviously important.

MS PALUMBO: Yes.

MR ROBSON: And, you know, there's a big discussion in this sector and elsewhere about – you know – randomised controlled trials and measuring the impact assessment. Is that something where Minderoo would then – or you could consider if you had access to the data you would – you know – socialise that and improve practises across the sector? Or what's the idea here? Is it just the access to data or is there some other role for government you see in – you know – socialising the results of any of analysis that comes out of access to the data?

MS PALUMBO: I mean government has such an important role in terms of access – enabling the access to the data – because no other party can do that.

MR ROBSON: Mm.

MS PALUMBO: I think there's an interesting collaboration opportunity potentially with government making the access to the data. But philanthropy could potentially partnering with community in the not for profit sector to be given that uplifting capabilities to be able to make best use of that. Because whether it's digital or data capability the sector doesn't always have the degree of digital or data capability inhouse. And so how do we then work in parallel and – hand in glove – with that as those data sets become more available and we're also working with the community sector to make best use of those as and when they become available. So that as a whole sector, when they can be really evidence informed decisions about where to best use our resources, support the things that are working.

MR ROBSON: Okay. Julie, have you - - -

MS ABRAMSON: Yes. I just wanted to explore a bit more about the community workshops idea that it's in your submission. So you see a role there for government. So I am interested why you think that that's something that government should be bringing together all of these different ways and which you basically can access funding. So I'm just kind of interested in that – not because it's not an idea we're thinking about. But why you think it's a government role?

MR HANSON: I might have to take that one on notice if that's okay. But I think in addition, kind of following on from the discussion we had about the First Nation's engagement some of our fire and flood resilience work is – you know – deeply embedded within communities who have suffered these natural disasters. So the ability to work with governments to hold those kind of facilitated conversations with communities, so it's not overwhelming the community with multiple demands of their time and energy.

MS ABRAMSON: There might be a different approach though. We were talking before about the foundation and Krystian was talking about capacity building. So I wonder if that's something you might turn your mind to with that part of the submission where you've said, 'Look, we'd see a role for government.' We might say who we see a role for assisting capacity building, whether that's government that does that or philanthropy.

MR HANSON: Sure. Okay. Thank you.

MS ABRAMSON: Thanks.

MR ROBSON: Did you want to ask another one?

MR SEIBERT: I think I'm all good there. Just – about - - -

MR ROBSON: The DGR?

MR SEIBERT: Yes. There's your views on DGR reform in your submission but – yes, whether you have any further views on that for, and also sort of the – in, I think that previously the Minderoo Foundation has expressed some views around some charities with multiple purposes. Sort of having some difficulties there. But, yes, if you wanted to expand upon anything with DGR reform?

MR HANSON: Yes, I think in essence we're supportive of kind of the streamlined more efficient DGR system that extends DGR status or rests with the charities and aiming to kind of remove those inconsistencies and boosting impact of – also reducing the admin burdens on charities.

MR SEIBERT: Okay.

MR ROBSON: So do you think that DGR should be extended to all charities or – because our proposal at the moment is to exclude some. So, particularly, at school building funds and charities with the sole purpose of advancing religion for example. So you would include those do you think? Or - - -

MR HANSON: Ah - - -

MR ROBSON: Or is it just the general spirit of extending it?

MR HANSON: - - - there may have been – I think we would align with your draft recommendations in that respect, yes.

MR ROBSON: Yes.

MR HANSON: With those exclusions. Yes.

MR ROBSON: All right.

MR HANSON: For sure.

MR ROBSON: Thank you.

MR SEIBERT: That's all from me.

MR ROBSON: Thank you very much.

MS ABRAMSON: Thank you.

MR HANSON: Yes, thank you.

MR ROBSON: Thanks. It's been helpful with your submissions.

MS ABRAMSON: I feel bad we're sending our stakeholders out into 'melty land'.

MR ROBSON: No. That's not our fault. No.

MS ABRAMSON: No. I know. But – you know – we brought them here so it's kind of our fault.

MR ROBSON: That's true. That is true.

MS PALUMBO: Thank you for the opportunity.

MS ABRAMSON: Thank you.

MR HANSON: Thank you.

MR ROBSON: Right. Shall we take a 15-minute break?

MR SEIBERT: Yes.

MS ABRAMSON: I can see John's ready to go.

MR PALERMO: That's all right. You can have your break. I don't mind.

MR ROBSON: All right. Yes. Okay. I've said it now. We'll take a break. Yes, we'll take a break until two o'clock.

SHORT ADJOURNMENT

RESUMED

MR ROBSON: All right. I think we'll get underway.

MR J. PALERMO: Sure.

MR ROBSON: Yes. 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 make an opening statement. We're happy to hear that. And then we'll get into some questions.

MR PALERMO: Very good. Thank you. My name is John Palermo. I am by way of professional role is I am the Chair of the Board of Chartered Accountants, Australia and New Zealand. I am also on the Board of Wesley College and the Catholic Education Commission. I'm not here in any of those capacities. I'm here in – as an advisor to the sector and our clients. I have seen their submissions and am well aware of their positions on some of these issues.

Let me start. I acknowledge the work of the committee and the work that has been done in producing what is an extremely comprehensive report, albeit 400 pages, I much more enjoyed the overview document as a summary to discuss with my colleagues and peers.

MS ABRAMSON: Well, looking at the draft.

MR PALERMO: We – from our perspective – we support many of the recommendations that's proposed, and together with my office are willing contributors to the collection of information requested under the proposals. We have taken a pragmatic view of the recommendations and requests, on the basis that philanthropy in Australia, as mentioned in the report, is a collaborative

funding model between private individuals, foundations, the corporate sector and, more importantly, the Australian taxpayer. We can better communicate this, as an industry, to our stakeholders. It's often dismissed when focusing on the other facets of the sector.

Noting the 1,200 submissions that you've received, and affirmed in the commission opening statement, I made the assumption that most of the feedback will be from those proposed to lose their DGR capabilities, such as school building funds. This does, in our opinion, need some more consultation, as we are not certain the basis on which this conclusion has been supported is necessarily true in the broader school community, and may prevent infrastructure improvements and developments at many schools, which will then fall back, potentially, on the government.

The philanthropy sector in Australia, when compared to the US or Europe, is still very immature, and it is forums such as this which will assist the promotion of education around compliance in the sector. Strengthening the ACNC and its work with the ATO will be instrumental.

There is an ever-increasing appetite for general and specialist professional advice. Compliance is evolving. By way of example, even our smallest funds will be encouraged by our office, and accept without exception, engaging an external annual audit, not because they need to spend money to check three transactions for the year, but it builds a culture of compliance from the start. It also builds an awareness amongst what is in most instances non-sophisticated members of the board to learn very quickly that it is a serious job co-funding causes with the taxpayer and government.

We heard earlier from Volunteering Australia, data around our volunteers is crucial to effective governance and improvement, but, in my view, is the hardest area to gain appropriate data for. Monthly surveys, as mentioned, in principle, are an effective way to do that. However, participant fatigue, I suspect, will take its toll very quickly.

I do share the view that having the data subject to an appropriate collection method would be very useful. And it's easy for us as accountants - we are used to counting in six-minute blocks - but perhaps not for everyone else.

There are other aspects which I'm happy to talk to, such as the smoothing of giving over three years and those points, but happy to - thank you to the commission - happy to take questions from there.

MR ROBSON: All right. Thanks very much. I might take you up on the last point, on, you know, our findings and recommendations on minimum distribution rates for ancillary funds. Are they something that you agree with? And you mentioned the averaging, or flexibility. What are your thoughts on what we've got in there?

MR PALERMO: So this has been a very active point of discussion. I think, the rates of contribution are adequate. I think, where we can look at improving is, if you drill down, why is there a difference between private and public ancillary funds? Can we refine that further? Where do we need two types of funds? Can we make the rules better?

I think you will get a lot of resistance if you propose to increase those rates above the five per cent, because a lot of these foundations need to be self-sustaining, and their rates of return will start to show negative if we factor in their admin cost.

The smoothing over three or even five years: completely supportive. I think, what you're finding - the anecdotal evidence amongst our client base in particular, both large and small, is that they will come across great causes and not so great causes over the course of their existence, and they have no problem with complying with the five per cent rule, but would love to be able to give 10 per cent in one year and less in another year, to make sure that the charities get the best out of it.

MR ROBSON: And to the extent that funds are - the five per cent - that binds - is it your experience that there are some funds that are consistently at that five per cent, or are they, sort of - you know, when - if they do, it might be once every few years, as I - - -

MR PALERMO: (Indistinct) either.

MR ROBSON: - - - understood in this question about - you know, you could see, in the cross-section of data, there's a certain percentage, but that percentage could be different funds, going from year to year. So we're interested in - - -

MR PALERMO: So you're referring to if there is an appetite that the funds will give more than the minimum requirement?

MR ROBSON: Well, it's understanding how the five per cent actually effects funds. There's some that might say, 'Well, I'm just going to give the five per cent, you know, every year.' Or there might be some that say, 'Oh, well' - like you were just saying, you know - 'I give five per cent one year, but I might give 20 per cent, and then I'm back to five a few years later, depending on the circumstances.' But, in the cross-section of data in one year, we can only see, well, you know - there's a certain percentage, and we don't know, you know, the life cycle of what those funds actually are; they're just at five, and that's it.

MR PALERMO: Yes. I think, given - if the opportunity existed to spread their giving over a period of time - and you would have to be prescriptive on that, I think; otherwise, people would get complacent, and they will leave it all till the last minute; they will give zero, zero, and then 15.

MR ROBSON: Yes.

MR PALERMO: I think, if you can put in place rules around having some sort of business plan to effect that, it will be really - it would be really, really effective for them.

MR ROBSON: And then - - -

MR PALERMO: And there will be an appetite for it.

MR ROBSON: And do you think, if the - you were saying that there would be, sort of, pushback on, you know, raising the minimum distribution rate. Do you think, then, people would donate less, and that would make these funds less attractive to - - -

MR PALERMO: It would.

MR ROBSON: Yes.

MR PALERMO: I think it would cause resistance from those thinking about setting up a fund, because then they will just pull back and give in their own personal company names, and they will give less.

MR ROBSON: Yes.

MR PALERMO: Just because that's human nature.

MR ROBSON: Yes.

MR PALERMO: 'We'll worry about it next year.' Everyone is busy.

MR ROBSON: Yes, okay. Questions?

MR SEIBERT: Just following on from this and, sort of, some evidence we heard earlier around, sort of, trustees for ancillary funds, thinking about, sort of, the questions around intergenerational justice in the context of their philanthropy, and a point I made there, that an ancillary fund - the guidelines require having an investment strategy, but they don't actually require having a philanthropic strategy.

Do you think that - I mean, I know, there will be - funds - foundations have strategies, et cetera. But, from your experience, working with your different clients, how much do they actually think about their strategy for their foundation; what they want to achieve; whether the various trade-offs, et cetera - and how variable is that sort of - - -

MR PALERMO: So all - all of them have their investment strategy - - -

MR SEIBERT: Sure.

MR PALERMO: - - - and their grant policy in place. That grant policy - we will usually put a bit more work into that. You could spit one out of ChatGPT in 20 seconds. But they will spend some time thinking about that, and really dictating their strategy for where they want their wealth to go.

Preceding that, the reason for that, and even setting up the - let's take a standard PAF - and we talked about this previously. The intergenerational wealth transfer is what's driving the culture of giving, not the tax deductibility. It's important to, usually, the matriarch or patriarch of the family, but generally, their underlying push for putting it together is to educate their family around what to do with the wealth, and give them some sense of purpose.

So there is a big piece, here, that is not just textbook answers; it's around the culture of why these foundations are being set up, and these charities are being set up.

MR SEIBERT: And just in terms of, like, the control of the funds, it's a unique situation, in that it has, kind of, benefited from a tax deduction; it's in a separate structure; but the trustee and the donors still have control over them. What are the views amongst, sort of - you know - those you engage with about, you know, whose money this actually is?

MR PALERMO: That's a good question. It will start, 90 per cent of the time, the same way, where it's their money. It will evolve very quickly into the foundation's money, and the board that are dictating where that goes.

MR SEIBERT: And what guides that evolution?

MR PALERMO: The independent - you need to have the independent people on board. You can't just have family directors on those trustees. That's really important, because then, it just adds a different dynamic in the room. So, if I'm in there, or you're in there, or a lawyer is in there, that always helps. But generally, once they start engaging with the charities, that lets them see the - it just reinforces the purpose of it, and creates that independence.

Inevitably - I mean, I can think of one example, which our friends down the table are probably familiar with, where it was very much regarded as their money. They've since passed away; it has been over a decade since. It has taken on its own life - board changes, cause changes, evolution of grants policies, investment strategies. It has doubled its corpus. And so, you know, these things tend to - my experience is that they tend to end up in the right place.

MR SEIBERT: And in terms of this kind of, you know, question about, you know, whose money it is, what are the views around transparency? Because there is - we sort of discussed it briefly in the draft report - there is an exemption for private ancillary funds from, sort of, having their reports publicly available on the ACNC register. Like, that's there, but, say, in the US, they don't - there isn't that kind of an exemption. What are the views of PAF trustees around the importance, or not, of that sort of privacy?

MR PALERMO: We don't have an issue with the transparency. In fact, we would encourage mandating that they are transparent in who they're giving to and what their assets are.

MR SEIBERT: Would that not have an - would - if people know that their - you know, all the financial information is available - publicly available - would that - would it not have an effect of discouraging people setting them up, or not?

MR PALERMO: Some.

MR SEIBERT: Yes.

MR PALERMO: But mostly, it will have the opposite effect, where, if people know that their records are publicly - they want to be seen to be giving more.

MR SEIBERT: So it could actually incentivise more giving.

MR PALERMO: Correct.

MR SEIBERT: Interesting, yes. I've got more questions around advisors and the role, but I could come back to that.

MS ABRAMSON: Yes, I just wondered if - we had a conversation this morning; I don't think you were here for that, John. We were talking to Ian Murray about this tension between governance at the ACNC standards and at what point it means that people won't volunteer. So, you know, it's - there's an argument that you would - that you want to increase the regulatory framework, in the sense of, we've got a lot of money under management.

So that was - you would have noticed in our report that we said, it might be time for the ACNC to have a more assertive profile, not because we thought that there was terrible noncompliance,

but simply the amount of money and the growth in the sector. But Ian made the point to us, in his submission, there's a tension there between wanting people to serve voluntarily on boards, but this increased compliance. And it's hard to know where you would actually balance that.

So your views, as an active board member, would be quite interesting. Do you think it prevents people from saying, 'Well, I'm going to volunteer to be on that board of a charity'?

MR PALERMO: I wouldn't have thought so. And I'm probably coming from one extreme of the spectrum, where, you know - - -

MS ABRAMSON: Yes.

MR PALERMO: - - - I can see - and I've been around long enough to see - what the benefits are, so you kind of push towards that. And we're all advocates and ambassadors for that point. I think there is a lot more merit to appease that tension from the ACNC having more of a role. I think they need - I think they're not seeing enough, as it is now. You know, we have to drill down. And part of that goes to the maturity of the industry - - -

MS ABRAMSON: Yes.

MR PALERMO: - - - comment. You know, we're asking questions that some people at the ACNC can't answer, that the lawyers can't answer - - -

MS ABRAMSON: Yes.

MR PALERMO: - - - that we're just, kind of, feeling our way through. So that will evolve, I think. But, look, I don't see that - - -

MS ABRAMSON: Well - - -

MR PALERMO: I probably don't share that view.

MS ABRAMSON: Actually, just on that point, when you said about things evolving - one of our proposals is also around test case funding for the ACNC, and also the ability to deliver rulings in the way that the Tax Office does. Do you think that that would be useful? Would it be a sort of - - -

MR PALERMO: It would be very helpful.

MS ABRAMSON: Yes - that's the sort of thing that you would avail yourself of? Yes.

MR PALERMO: And special dispensation, because, every now and again, you will get, you know, circumstances that are outside the control of the foundation. They're not doing the wrong thing; they're absolutely trying to do the right thing.

MS ABRAMSON: Yes.

MR PALERMO: But they would like some assistance in that regard. Now, if the ACNC, like the tax commissioner, could give dispensation on a specific set of circumstances, or - like you would with a private ruling - - -

MS ABRAMSON: Yes.

MR PALERMO: You know, submit, 'These are our ideas.' 28 days later, the ATO comes back and says, 'Nope,' or - - -

MS ABRAMSON: Or yes.

MR PALERMO: - - - 'Yes, we'll look at it.' Great.

MS ABRAMSON: No, that's very helpful, thank you. Krystian.

MR SEIBERT: Just on the role of advisors, could you, sort of, maybe just elaborate upon - you know, as an advisor yourself - about what you see their role being in the context of the philanthropy.

MR PALERMO: What we're seeing from our side - and this is not just for PAFs and PuAFs; it's larger foundations and institutions that are now seeking our assistance - is just a sounding board to guide them through. It can be a minefield, and everyone wants to avoid the surprises in life where they go, 'Ooh, you've done that wrong, and now it's going to cost you a lot of money.' So, there is a - certainly - an appetite, as I mentioned, for more professional assistance in that regard.

My feedback is, you're now starting to see that bubble around the country, where people are saying, 'We should get into this space, because, you know, there is a - you know, there's a need for it.' I think, where we can stretch further - and it's just time - is, there needs to be more engagement with government; there needs to be more engagement with the legal profession, because even the lawyers they set up in PAFs - you fire a few questions at them, and they're like, 'Hang on. Let me look that up.' So the - and it's not their fault; it's just, the level of experience in the industry is not there.

MR SEIBERT: And do you think the existing, sort of, say, market incentives are sufficient that, you know, once, sort of, advisors and others in the different firms see that there's some demand, they will start to respond to that? Or, is there a - like - is there a role for government here? Are there any regulatory or other barriers, or anything like that?

MR PALERMO: I think that's more just the maturity of the industry, and people seeking out professional assistance. So, the way I look at it is not dissimilar to self-managed super funds, you know. They all get an audit; they all get advice; they all need an investor. And so, if you can't afford to set up your own foundation, just give in your own right.

You know, if you have money to give - and I'm not putting a quantum on that, because everyone has got a different threshold for what that means. But if you want to donate to your favourite charity, and you can do that through your individual tax return, fantastic. You're supporting. Great. If you want to set up a private ancillary fund, whether it's for intergenerational wealth transfer, education, or ego purposes - and I'm not discounting that; that's a big part of it at times - then you will pay for the right help to get that set up properly.

MR SEIBERT: Is there anything that, sort of, the philanthropic sector - that the, sort of, financial planning and other, sort of, advisor bodies could be doing in this space? Sort of - or not? Or - is it, sort of, just something where, sort of, the market incentives will just need time to - to drive change?

MR PALERMO: The market - the capital side of the philanthropic industry, I think, will just drive itself, because they will find their way through. I think there's - there are financial planners and fund managers out there, who are hungry for the corpus that's in these foundations, and we're constantly pushing them on. There is - obviously, there's a benefit to these foundations being in a tax-free environment, and franking credit benefits - you know, investing in the market - so there's all those tax benefits that come from it. But I go back to that point that I made earlier: we, as advisors, need to educate them that that's not free, right? That is the taxpayer's dollar that's helping fund those causes. And I think we haven't done that well enough; I think we can do it better.

MR SEIBERT: And just on education - sort of, when you're doing, like, say, a certification, sort of, as a - whether it's, you know, sort of, as an accountant, or a financial planner, et cetera - do the, sort of - is there any coverage of, sort of, this sort of thing - philanthropy, the various tax arrangements, et cetera - in the, sort of, course content, sort of, when you - - -

MR PALERMO: For chartered accounting courses?

MR SEIBERT: Yes.

MR PALERMO: Not unless you go looking for it specifically. I think that - actually, I asked one in my office - someone in my office this as I was running out the door. I said, 'What would you like me to raise?' And their first thing was professional development. So there is a lack of that. And that's - again, how many hours do you have in your day? That's up to us. You know, so the education ambassador piece is not - and when I say that's not me; it's us collectively being ambassadors for who's actually funding these causes, where the benefit is, where the professional development is. You know, not everyone can afford to go and sit with the Wellcome Trust in the UK for a week, and learn how they do it, all right? So, in Australia, it is very difficult to find PD in this space.

MR SEIBERT: Well, why is that?

MR PALERMO: Just not enough people in it yet.

MR SEIBERT: And will that be something that the market, sort of - - -

MR PALERMO: It's happening now.

MR SEIBERT: - - - dynamics will correct that, over time?

MR PALERMO: Correct, correct. Because you will - you've started to see now - you would have spoken to the group this morning - they have a committee specifically set up for the NFP sector, and philanthropy, and that will grow. So we will become more engaged with that, but - you have a whole generation of young professionals coming through now that are absolutely on board with this. They get it. They understand it. They want to know more about it.

MS ABRAMSON: Do you think it will end up - as you know, I'm a lawyer - so where - law has various - you know, like, you've got expertise in property, but to be able to say that, you have to have done the required training at the institute. So you would see the chartered - the accountants as developing in the same way?

MR PALERMO: So they're doing - well, they're heading in the direction of micro-credentialling.

MS ABRAMSON: Yes.

MR PALERMO: Different to - you know, when I graduated, it was advanced tax, advanced audit, advanced insolvency.

MS ABRAMSON: Yes, I know. Now they use the word 'micro'; it's not very helpful.

MR PALERMO: No. But that will, you know, for example - and I'm speaking out of turn; please don't quote me on this, but the - - -

MS ABRAMSON: You are on transcript; you know that?

MR PALERMO: No, I know, and that's fine. And I'm not saying anything they will judge me on. But the data analytics unit with CA is the - has outperformed everything else, because just the appetite from the younger guys coming through - and girls - that want to study that.

MR ROBSON: So do you think - getting to Krystian's point on the sort of evolution of the market, that - on both sides - that, you know, that will create - I mean, nothing ever happens with - unless there's incentives - private, you know, gain from doing this stuff. And so you think that those incentives are going to be strong enough, in terms of the - how people now feel about this, and - - -

MR PALERMO: The demand will drive that.

MR ROBSON: Yes.

MR PALERMO: And I think you will get - the academics will get on board and develop courses to educate people. It's just inevitable, and it's happening now.

MR SEIBERT: But just on this, when, sort of, like, say, a client comes, and they're like, 'I'm interested in getting into philanthropy,' and you get to the discussion of, say, a structure, is there a need to play with, sort of, the kind of duties, in terms of providing advice around, say - if you advise them to set up a private ancillary fund, there's the prospect of, perhaps, having a role in the management of that, and the funds in that, et cetera, just hypothetically, in a general sense; whereas, say, it may be better for them to set up a sub-fund within a public ancillary fund, within a community foundation, or somewhere, so it's going to be managed by that community foundation? Is there an interplay there in terms of, you know, donors having all the - potential donors - having all the information about the options that are available to them?

I mean, we've seen in the US that, sort of, donor advised funds, you know - sub-funds, equivalent - are really taking off. So, like, is there any kind of interplay there in terms of ensuring that - yes - respective donors have got all the information, sort of, available to make decisions?

MR PALERMO: That's up to the advisor, I think. That's no different to wanting to set up a company for your business. You know, will you - have you chosen the best advisor, that will give you all of the options, or are they driving you in one direction? That's just the normal practice out there, you know. And you - it depends on the advisor you choose. I can only speak

for ourselves. If someone approaches us - and you're getting a lot more of it now, because there are liquidity events, and new money in Australia, especially, where they're saying, 'I want to do something for the community. I have to give back. I've got three young kids who have never known anything but a lot of wealth, and how do I teach them?' We will encourage them, even before setting up a fund, to start - well, it's all about setting up - and probably not for this discussion, but setting up their family to open dialogue around what do they actually want to do.

And then you present them the options. You get the lawyer in the room to say, 'These are the myriad of options you can choose'. And they start disseminating what suits them. And then you may end up in a position where you set up a public or private ancillary fund, then you start putting the structure around that. They go and read. They get more informed about it. They go off and do courses; the kids do the same, and off you go.

MR ROBSON: In this context, you know, this all does go to, you know, building a culture of giving, so to speak, in terms of – it isn't necessarily about tax and regulation. I mean, do you think that there is a role for government in the terms of building the culture? Is that really something that's just going to be led by advisors, by others, like, because you know, we've had different things said to us about that.

MR PALERMO: There's definitely a spot for government in our model. I don't know what that looks like yet.

MS ABRAMSON: Can we ask John? And I think it's perfectly acceptable if you don't want to answer this. So I understand that. We had some questions about the licensed (indistinct) trustee company. So we made some observations that it's a very concentrated market now. There were previous inquiries that looked at the fees and charges. I wondered if you had any views about the trust companies?

MR PALERMO: You're talking about professional trustee companies?

MS ABRAMSON: Yes.

MR PALERMO: Not a lot I can add. I don't think – I haven't landed on a view.

MS ABRAMSON: I suppose another question I'd ask you, John, is why would people come to see you in your firm and say, 'Can you please set up some arrangements for us? This is what we would like to do'. As opposed, perhaps, going to a trust company, particularly with people who were in their elder years, which they might have been more familiar with that than the things that you're working on. Do you have views about that?

MR PALERMO: There's no hard and fast rule about that. Generally, those who use a trustee company don't want to have the compliance burden or the perceived compliance burden. So they will pay whatever fees they need to, to get that looked after for them. And also they see that they will be given a menu of things that they can give to, through that (indistinct). So these are the 25 charities that we have done our due diligence on and that you can support. Great, one, two or three. Those that come to us generally want to dictate their own path. So they will have a focus on social welfare, the arts, medical, or a combination – education, or a combination of all those things, Indigenous health, and we will facilitate that for them. We won't give them advice. They'll make their own decisions. We basically administrate that process.

MS ABRAMSON: Yes. So it comes down, obviously, to the individual.

MR PALERMO: Correct.

MS ABRAMSON: Yes. I understand. The other questions we wanted to ask a bit about superannuation. You'll see that we had some recommendations around that and whether you had any views on that?

MR PALERMO: Not really. Comfortable.

MR ROBSON: As in what sense? No views about it in general?

MR PALERMO: I have no views in general.

MR ROBSON: About superannuation, yes.

MR PALERMO: No. Look, the recommendations there are satisfactory. I think where you've landed or where it looks like you're headed I think even bouncing that off a few other people, I think they had a similar view to me.

MR ROBSON: But what is that view though? As in – because we have an information request around sort of whether it should be made easier to - - -

MR PALERMO: To give from super?

MR ROBSON: Superannuation.

MS ABRAMSON: Yes, so nomination. (Indistinct) directly.

MR PALERMO: If – you have a large (indistinct) of funds in the superannuation sector. And again, I might take that on notice as to – but we would support being able to use superannuation funds to make donations.

MR ROBSON: Because I suppose there's all the different types of superannuation, obviously like, you've got sort of, you know, retail or industry fund. But then self-managed super funds - - -

MR PALERMO: Yes. My focus is SMSFs. I think if we start opening the door from there.

MR ROBSON: And what's your view about sort of, yes, making it easier sort of to get requests from SMSFs specifically.

MR PALERMO: Support it. I think you'd get a lot of traction there. And you'd get a lot – you'd increase your donations. If you're trying to hit a target by 2030, that's a great avenue to do it with.

MR ROBSON: I might just come back to the former set of questions on patterns of giving, and I think in our (indistinct) meeting last year. We had a bit of a discussion about new money and what's special about Western Australia. What's – what are your thoughts on that? Because, you know, over on the east coast we see very well-established charities. You've got long-established donors and so on. And they've got a particular view about philanthropy and what it's for.

Whereas new money over here in WA might have a different view on what its purpose is and how it should work.

MR PALERMO: Look, obviously our focus is Western Australia. That's where we all live. But it's not exclusive to Western Australia. But certainly you're seeing an emergence of certainly wealth in younger generations and generations that have not – where the wealth has not been transferred from parents. And they're coming up with all the same issues that the older money in Sydney and Melbourne would have experienced three generations ago. So the biggest – if I had to rank the reasons for people setting up foundations, and the tax deductibility is certainly an attractive part of it, but most of it is educating their kids around intergenerational wealth transfer. And that is growing exponentially.

MS ABRAMSON: Can I ask a question that's related to that? It mightn't be your exact experience. But we understand that there are some issues when somebody sells their equity in a business and then they want to transfer that equity to different – to a philanthropic cause – and that there are some tax issues around that. So any views you have on that, we would be interested in, even if you want to take it on notice.

MR PALERMO: I might take it on notice. You're specifically asking about capital gains tax. Yes?

MS ABRAMSON: Yes. Thanks John.

MR PALERMO: Thank you very much.

MR ROBSON: Thank you.

MS ABRAMSON: Thank you.

MR PALERMO: Hopefully that was helpful.

MS ABRAMSON: It was super helpful. Thank you.

MR ROBSON: Great. Really good.

MS ABRAMSON: And, you know, thank you for all your help so far. It was really appreciated.

MR PALERMO: Yes, very good. Enjoy the rest of the day.

MS ABRAMSON: Well, enjoy your trip to Canberra. Thank you. Thanks.

MR ROBSON: Okay. Who's out there next?

MS ABRAMSON: The Buddhists.

MR ROBSON: Yes. I think they're waiting outside.

MS ABRAMSON: They are. I think they can come in if they wanted to.

MR ROBSON: Yes. They can come in.

MS ABRAMSON: They wrote to me personally.

MR ROBSON: Okay. We can get started. So welcome. If you could 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'll give you some questions.

MR D. SOLOMON: My name is Doug Solomon. I'm the lawyer for the two parties that have made the submission, the Buddhist Society of Western Australia Inc, which I'll call BSWA, and the Australian Sangha Association. What I've got to say is to supplement the written submissions that have been made on 3 February 2024. The broad scope of - - -

VENERABLE METTAJI: Sorry, let me just introduce myself.

MR SOLOMON: Sorry.

VENERABLE METTAJI: So **VENERABLE METTAJI.** I'm a Buddhist monk at Bodhinyana Monastery, which is about an hour south from (indistinct) forest. That's part of the Buddhist Society of Western Australia. And then I'm also with the Australian Sangha Association which is the peak body of monks and nuns in Australia. So they asked that we put in a joint submission to you, so it reflected all monastics across Australia.

MR ROBSON: Thank you.

MS ABRAMSON: Thank you.

MR SOLOMON: Okay. So the broad scope of operation of the current legislation concerning school building funds, having deductible gift recipient status – I'll call that DGR – and the background to the review of DGR status for school building funds, should have been taken into account in the draft report of the commission, in deciding to recommend abolishing DGR status for all school building funds. I'll provide a summary of that scope and background.

The commissioner of taxation purported to limit the scope of operation of DGR status to school building funds, for construction, acquisition and maintenance of buildings for schools providing vocational, non-recreational training, which is provided on a regular, ongoing, and systematic basis by publishing a public tax ruling in 2013, known as TR-2013/2. The analysis in TR-2013/2 was flawed, principally because it was held by the Federal Court of Australia to be inconsistent with a long series of Superior Court decisions concerning the meaning of the word 'school'.

All those cases were examined in the judgement in *BSWA v Commissioner of Taxation 2* [2021] FCA 1363 at 85-102. If you look at that judgement you'll see I represented BSWA as counsel in that case. The accepted meaning of school as determined by a unanimous decision of the High Court of Australia in 1973, which has never been doubted, is quoted in the BSWA judgement at 87 and also referred to at 94.

The judge in the BSWA judgement held at paragraph 100 of the judgement that the assertion in TR 2013/2 that a school must satisfy non-recreational or vocational requirements is inconsistent with Australian law, and also held that regular ongoing and systematic instruction is far less appropriate as the yard stick for assessing recreational forms of education as opposed to vocational education.

The result of the decision is that included among the school building funds which have DGR status are many schools such as those operated by BSWA, which are carried on by charities and which will be seriously harmed if their school building funds lose their DGR status. It's appropriate that I read the quotation at 87 in the BSWA judgement from the High Court's 1973 judgement of the meaning of 'school':

A 'school' is a place where people, whether young, adolescent, or adult, assemble for the purpose of being instructed in some area of knowledge or of activity. Thus there are drama schools, ballet schools, technical schools, trade schools, agricultural schools and so on.

This commission is now taking submissions about its draft report recommending a legislative response to the BSWA decision - and that decision was not appealed by the Commissioner of Taxation - of abolishing the longstanding DGR status of all school building funds whether the schools provide vocational or recreational instruction and whether or not the instruction is regular, ongoing, and systematic or not.

That is to say, the proposed recommendation goes a lot further in its restriction of school building funds than TR 2013/2 went. The proposed legislative response subject of the recommendation in the draft report by the Commission is there for not merely to attack recreational school building funds, which the Commissioner of Taxation unsuccessfully attacked with TR 2013/2, but to substantially broaden the attack to also include all vocational school building funds of schools which currently qualify for DGR status because they're carried on otherwise than for profit or gain of the members of the association operating the school. And that is a legislative requirement which we have referred to in para 4(1) of our submissions.

The very breadth of the recommended proposed legislative change in itself is a strong reason for the Commission to carefully review its draft report before it's finalised. Most aspects of this submission are applicable to all classes of school - that is, vocational and recreational - which would be adversely affected by a decision of the parliament to implement the proposed recommendation in the draft report of the Commission. There are, however, likely to be additional factors which those conducting not for profit vocation schools will also make which are not dealt within this submission.

For convenience, I'll now summarise the aspects of our submission which are applicable to all classes of schools affected by the proposed legislative change, and then conclude with some brief submissions concerning schools operated by charities.

The first submission concerning all school building funds is that because of the limitations and protections in the current legislation which are firstly that only a school building of a school operated by an association otherwise than for profitable gain of its members can have DGR status.

Second, that the funds of the school building fund with DGR status can only be used for construction, acquisition or maintenance of a building or buildings to be used for a school and not to satisfy operating expenses of the school or obligations of donors to pay instruction fees or other material benefits of donors.

And thirdly, that if either of those requirements is breached, the Commissioner of Taxation currently has very strong powers to immediately revoke the DGR status of a non-complying fund.

And because of those three protections and limitations in the current legislation, the legislation currently appropriately restricts DGR status to school building funds of schools operated on a not-for-profit basis and allows for immediate cancellation of DGR status of any fund which uses funds in its school building fund for operating expenses or any other expenses other than construction, acquisition, or maintenance of school buildings.

It should also be noted that there is state legislation consistent with the current Commonwealth DGR legislation concerning state funding for vocational education which similarly requires that a funded body operate on a not-for-profit basis. That such consistence at state legislation was recently the subject of a decision of the New South Wales Court of Appeal in a case named *Christian Community Ministries Ltd v Minister for Education and Early Learning* [2024] NSWCA 1.

The Commission does not appear to have turned its attention to the impact of the proposed abolition of school building funds having DGR status on the consistent funding model in state legislation. Furthermore, that the Commission has focused on misapplication of funds of school building funds by those operating schools as a basis for abolition of DGR status of all school building funds is inappropriate.

At most, the Commission should recommend stronger enforcement by the Commissioner of Taxation of the strong existing legislative safeguards with respect to non-compliant funds. Overall, it is submitted that the draft report should be amended to recommend that the current legislative restrictions are appropriate and adequate and appropriately dovetail with consistent state legislation.

The second submission concerning all school building funds is that, as referred to in paragraph 6(3) of our written submissions, the proposed legislative amendments would, unless amended to only apply to conferring DGR status on new funds and to not affect the ongoing operational status of existing funds with DGR status - and this is an outcome which is not suggested in the Commission draft report - be likely to cause serious financial harm to existing not for profit school building funds with DGR status which require ongoing donations to complete or expand existing school buildings and or to maintain school buildings.

For school development projects to be unable to be completed or properly maintained because of the proposed legislative abolition of DGR status for existing school building funds would be harmful and plainly contrary to the public interest. That this entirely inappropriate effect of the proposed legislative change on existing school building projects has not been considered in the draft report is another major reason why the draft report needs to be carefully reviewed and amended before it is finalised.

The third submission concerning all school building funds is that, as referred to in paragraph 8 of our written submissions, which not for profit schools are able to be established and maintained should be left to the decision of donors. If the donors give a sufficient amount, a proposed school to be operated by a not-for-profit association can be built maintained using the donated funds, and that outcome will always be in the public interest.

If the donors do not give a sufficient amount, the project will not be able to proceed, and any funds contributed to the fund will then be disposed of under the applicable provisions for winding up a fund with DGR status, and provisions for winding up of a fund must always be included in the fund documents of a fund with DGR status. You can't get DGR status without having winding up provisions which the Commissioner of Taxation approves.

The alternative to donors making the decision as to which proposed schools should be built and maintained and which should not is that donations that are likely to become seriously diminished through abolition of the incentive provided by DGR status, and the likely result will be reduced establishment and maintenance of schools to be operated by not-for-profit associations. And that is an outcome which can only be said to be against the public interest.

The fourth submission concerning all school building funds is that because of the limited understanding of the emotional behaviour of donors and their choices, which is detailed in the first section of our written submissions, it is not possible to predict precisely the level of reduction in donations to the school building funds of not-for-profit schools if they lose their DGR status. There is, however, no doubt that the reduction will be significant.

To deprive not-for-profit schools of the benefit of a material component of their donations for the reason that some funds are suspected of misapplying funds of a school building fund with DGR status, for school operating expenses, when that conduct could and should result in cancellation of the DGR status of the fund by the Commissioner of Taxation under the current legislation would be, it is submitted, illogical and misconceived.

I will conclude with submissions concerning school building funds of schools operated by charities. Because of the legislative restriction mentioned above, that DGR status is only conferred on school building funds for schools operated on a not-for-profit basis, many, but not all, bodies operating schools with school building funds having DGR status, are charities. The reason that all bodies conducting schools with DGR status school building funds are not charities, is because charitable status depends on the objects of the body being charitable under State law. And that's referred to in the last section of our written submissions.

Hence, there may well be recreational schools with DGR status school building funds conducted by bodies whose objects do not satisfy the requirements under the State law of being charitable. However, as mentioned, most bodies to be affected by the proposed legislative abolition of DGR status for school building funds of not-for-profit schools, are charities. The proposed abolition of DGR status for school building funds of schools operated by charities would be entirely inconsistent with the comment made by the minister, the Honourable Dr Andrew Lee, in June 2022, referred to in the first section of our written submission, that the, 'Nine year war on charities has ended'.

The Commission should therefore refocus its attention on assisting, and not harming, the worthy fundraising efforts of charities. The only way that objective could be achieved if the legislative abolition of DGR status of school building funds of not-for-profit schools proceeds, would be if at the same time, all donations to a charity registered by the ACNC, and not merely donations to its school building funds, were by legislative amendment made subject to DGR status for so long as the charity remains registered by the ACNC.

That proposed legislative change would, consistently with the honourable minister's comments that the war on charities has ended, be likely to assist in achieving the meritorious proposal in the draft report, of doubling charitable contributions by 2030.

MR ROBSON: Thank you. Thank you very much. I might just react to a couple of those comments, and then (indistinct), if you want to ask questions. So just by way of background, when we came to look at DGR status and the DGR system in this report, we found a system that

was – couldn't be justified on policy grounds. It was incoherent, a mess. And so we set about trying to look at the system from first principles.

MR SOLOMON: What's incoherent about it?

MR ROBSON: Well, you tell me, what is the – what's your view of the purpose of DGR and the way in which it interacts between gaining charitable status and the 52 DGR categories that the ATO finds.

MR SOLOMON: Look, since income tax legislation started in Australia, it has always drawn a distinction between the income status of a charity, that is to say a charity does not pay income tax on its income and deductibility of donations to that body. The only bodies, going right back to the 1930s where deductibility is available for all of their activities, are bodies which in another section of the Income Tax Assessment Act 1997 from the one concerning school building funds, are called public benevolent institutions.

And that term was construed in two cases in the High Court in the 1930s in a very narrow way. So there is – has been a distinction (indistinct) between – a charity does not pay tax on its income. But a donor to bodies, getting a tax deduction is a different question. And there has been going back nearly 100 years, school building funds. There have been all sorts of buildings which have been created that require ongoing maintenance. And just to stop that system dead in its tracks is going to have an absolutely drastically detrimental effect on all of these ongoing projects, for no good reason. Because the effect on the federal budget of this, as you well know, is miniscule, absolutely miniscule. So what's this all about?

MR ROBSON: Can I speak now?

MR SOLOMON: Yes.

MR ROBSON: Is that okay?

MR SOLOMON: Of course.

MR ROBSON: Thank you. Okay. So as I was saying, we came to a view, when we looked at the DGR system, tax deductibility for donations – we're not talking about charities paying income tax or not – a separate issue. We did look at that. We recommended no change to that.

MR SOLOMON: I know.

MR ROBSON: Okay. The DGR system is full of incoherences and inconsistencies. And we've outlined those in our report. So we started with a set of principles. And then we applied those principles. Okay? And in the application of those principles, we came to the view – preliminary view – that school building funds could not be justified on those principles. Now, I just want to pick up, and it's in that context that we support, and it's clear in our report, we think there is a role for government in supporting school infrastructure. The question that we're looking at in this report is whether that deduction that we have currently under the DGR status, is the best way to do that.

So I don't think it's helpful for the purposes of this inquiry to characterise that as an attack on anybody. It's not an attack. Okay? We are starting from a set of principles, applying those

principles. We are keen to get your feedback. We very much appreciate your feedback. And I'd like to discuss a number of the points that you've raised. I just want to put that on the record.

MR SOLOMON: Well it's an attack on the donors. It's an attack on the donors.

MR ROBSON: Excuse me, I haven't finished. I haven't finished speaking yet. Can I just – can I speak please? Okay? It's not an attack on anybody. Okay? It's not an attack on any institution or any set of institutions. It's a draft proposal and we're seeking feedback on it. Okay? Now, you've made a number of interesting points. I was particularly interested in the point around, you know, you said it wouldn't be possible to predict precisely what the effect on donations would be. I'm interested in why you think that's the case. And I appreciate your suggestion that it would be significant. But certainly a point of view that, you know, we're interested in hearing about. But so in your experience, what leads you to that conclusion around the significance of the response.

MR SOLOMON: In our written submission, the research that we refer to there suggests that the – it's in the first part of the written submission – that the analysis of donor intention and donor choices, is not much study. And it's got a lot factors as suggested is playing into it. And it's certainly not something you can predict with certainty. So that is just building on what is said in our written submission, that there's a whole broad equation that affects donors.

But the point that we are making is this. Why should it be up to the government to decide what school projects get funded? What is the problem with donors making decisions? And that's what I'm saying. You get a school building fund registered with DGR status, and you go and try and raise the money for it, and you don't get it. You wind it up. The money is not going to be lost to the government. It has to be applied to another fund with a DGR status. That's the standard provision the Commissioner requires.

But once you establish a fund, has DGR status, and it has sufficient support from donors who, for whatever complex series of reasons they decide they want to support it, it is able to be established and it does get established, and it prospers, that's in the public interest. In retrospect, it's necessarily in the public interest that it happen. And what one can say is that without any doubt - without being able to put a precise percentage on it, there is benefit to the charity sector in the deductibility of gifts. Quite what percentage of money comes, I don't think anyone can say. It hasn't been studied and you'll never get a certain outcome as to exactly how much will be lost to the sector, but that's the point we make.

MR ROBSON: I'll just pick up on your point on the idea of donors contributing to schools and in fact we have no problem with that. That's great. The issue, in this particular case, is the taxpayer is effectively a silent partner in that by virtue of there's a deduction going on and that means there's lost revenue, and so that is where the public policy issue comes in. So that's why we're focused on the precise question across all of those entities and activities for getting charitable status is where is the case for public support? That's the first principle. And is a deduction for a donation the best way of doing that compared to alternatives? So I'm interested in drawing out your views - and I think you made the point that, you know, facilitates choice and those kinds of things, and - - -

MR SOLOMON: And amount.

MR ROBSON: Yes, so - - -

MR SOLOMON: Someone who's on the top level of tax - - -

VENERABLE METTAJI: Let me say something in a second. Yes.

MR SOLOMON: Somebody who is on the top level of tax can give double the amount for the same cost to them. So the charity sector - you can say it costs the taxpayers something that there isn't tax paid. That comes from some fundamental governmental concept that the government owns the gross income of every taxpayer and should get everything. But the long and the short of it is that if you're reducing the deductibility for the donor, you are drastically reducing the amount received by the charity because a donor on top rate tax can give double the amount for the same net cost, and it's the charity sector that is going to be really harmed by this proposed change. And that's a public detriment against the public benefit that you're talking about, and it needs to be weighed up and weighed up heavily in the equation.

MR SEIBERT: I think it's really important to recognise here that we, in this draft report, for example, recognise sort of the diverse types of organisations and charities including religious charities, faith-based charities, and their important role in the community. But it's also really important - and this is a general comment - to recognise that there are trade-offs, and we have received submissions from charities saying that if you expand access to tax concessions - this is a general comment about eligibility for tax concessions - there is a reduction in government revenue - and these are submissions from charity bodies, welfare organisations - and then those funds are not available to fund services and things in the community.

So I think the context for the Commission's inquiry is that, yes, there is a desire to grow giving and increase philanthropy, but that happens in the context where government policy choices around what is eligible and what is not eligible for tax concessions - and this is an area that I've worked in for 10 years - there are costs and benefits. We don't deny that there are benefits, and it's about a weighing up exercise, and the nature of charity law since the Statute of Elizabeth in 1601 is about what boundaries we draw and how those boundaries align with community benefit and that sort of thing.

And what we've tried to do in the case of the DGR system is look at something - this goes to Alex's point around incoherence. At the moment, you can be trying to prevent injuries in children, and you aren't eligible for DGR status. But if you're trying to prevent illnesses, you are eligible. That's the incoherence of the system. It has no rhyme or reason to it. And so that's why we've adopted this principles perspective. But we're now seeking feedback about what the implications of that are. The principles may be right, may be wrong. The application may be right or may be wrong, and we're really wanting to understand that in this context.

MR SOLOMON: Well, the only - - -

MS ABRAMSON: Can I just say one other thing?

MR SOLOMON: Sorry, yes.

MS ABRAMSON: We can understand absolutely that getting to where you are now has been a very difficult and stressful process to even have to go through a court case to have it overturned to go to the ATO. So we can understand - we've read your submissions - we can understand the background to that. But as Krystian and Alex have said, we're testing policy proposals. We don't pretend that we get everything right. In fact we're very grateful that you've taken the time to come to talk to us. So for our perspective, it's a policy discussion. But I just want you to

make it clear. We understand that this would have been a very difficult path to get to where you are.

MR SOLOMON: Yes, well can I - - -

VENERABLE METTAJI: And that's what I wanted to reflect on. So I came to Western Australia in 2017. You have to be a man in white for a year before you can become a monk, and we had this review from the ATO saying that 'we want to look at all your building funds.' Fortunately, Susan Pascoe who was standing down as the ACNC commissioner was in town and I asked her, 'Could you explain how school building funds came into being in Australia?' and she referenced the 1930s where there were a number of churches in outback Australia that were failing and the churches said, 'Pay us out. Save us,' and the government of the day said, 'No, we can't, but if we can come up with a composite arrangement, if people were to donate then we would meet that.' Yes?

When BSWA was created 50 years ago, the tax office locally said to Doug, who's been our (indistinct) for 40 years, 'You're entitled to this, and it will help you build your infrastructure.' So in one sense, we've done the right thing by Australia.

MS ABRAMSON: I can understand that.

VENERABLE METTAJI: And continued to do so and have put down new infrastructure in the last four or five years on the basis that we were doing right. One of the problems with us on policy then is the ATO comes along and says, 'Meditation doesn't have any benefit in Australian society, and you monks are just loafing around every day not making any contribution to Australia.'

MS ABRAMSON: And that would have been very distressing to hear that.

VENERABLE METTAJI: So and that's why we went to court.

MS ABRAMSON: I understand.

VENERABLE METTAJI: And on the basis of we met the terms of the building fund, we've made the odd mistake, and we put the balances back when that was the case. We were told, Alex, Julie, and Krystian, it was the only thing that we would be able to offer a tax incentive to our donors. And then for the donors there's a direct correlation between - they may be Sri Lankan or Thai, they've come here, they're looking for their local cultural resource, we happen to be it. You know, we're 29 male monastics in the forest in (indistinct) from 15 nationalities. So we do all of that. We do it willingly, and we've never earned a cent. You know, we've taken the vow of poverty.

If the DGR status is taken away, then we're left with the scenario that because we're a religion we can't offer any benefit for us going forward. Perhaps I can put it in that fashion.

MS ABRAMSON: No, we understand, thank you.

MR SOLOMON: Could I just suggest in response to the comment about incoherence, the only incoherence with respect to deductible status is the result of the legislation having grown bit by bit over 90 years, and so things have been added to deductible status bit by bit, particular funds.

MR SEIBERT: That's exactly what we say.

MR SOLOMON: Particular groups have lobbied for this and that.

MR SEIBERT: Exactly. That's totally right.

MR SOLOMON: And after the Second World War it was memorial halls at schools that all had deductibility up until about 1964. So the categories are the only thing that has got a level of incoherence. And that's just the result that the legislation has just grown piecemeal over 90 years.

MR SEIBERT: Exactly. And that's what we're trying to fix.

MR SOLOMON: And if what was done was to just kind of work out broader principles for it and rather than have the big, long list of things that don't appear to have a lot essentially in common and they're just individual items, that's understandable, but it seems that the whole shooting match that the baby is going out with the bathwater.

MR SEIBERT: But that's what's proposed though.

MS ABRAMSON: That's what we would say to you. We would say, 'Well, we've set up these principles,' which is where Alex started with, because we understand what you're saying there. So we're interested in testing our proposal. Also thank you for that because we understand that this has been a very difficult journey, so that's important as part of your submission.

MR SEIBERT: And that's why we're here.

MR SOLOMON: But to take away the status of funds of existing schools for their construction and for their ongoing maintenance, it would - - -

MS ABRAMSON: Well, this is a policy - just bear with me for one moment. This is a policy proposal which is kind of why you're here. So we don't ever profess at the Commission 'We get everything right.' But this is why we test things because if you hadn't made the effort to come to us, we probably wouldn't have heard from the Buddhist community, to be honest. We've heard from some other communities. So that's important. So we're interested. Do you think our policy principles are right? You're saying to us, 'Well, the application will mean X, Y, and Z for us,' and that's an important message for us to hear.

MR ROBSON: Very important.

VENERABLE METTAJI: So the correlation I would be looking for, if I may, to us on the receiving end - and we may be a bit damaged from the ATO skirmish - is it doesn't seem as though we would have great charity status if the DGR school building funds is gone, and we can raise with the community in saying, 'Oh, do you want another monastery in Albany?' or, you know, there's a beautiful nun's monastery in a place called Gidgegannup, which is about 50 miles east of here, which is like one of the first in the world.

So we did it on the basis that we have solid ground. Solid ground may disappear in the sense that we know that other charities and PBIs can have tax receipt offered on anything they do, and yet we understand why there's been some anti-religion sentiment because of some horrible things that certain religions have done.

MS ABRAMSON: Could I just say that's not the position of the Commission. We are neutral on those issues. We're looking at it as a policy position. And I'm going to ask you a question to which I don't particularly have an answer that's a very direct question. Do you think the people who donate to you, who are people of deep faith, would donate anyway, or do you think that the deduction is actually quite an important part of how much people give you?

VENERABLE METTAJI: Both. For the high-net worth individual, they may look at what profits they're going to do this year and say that the monastery has been sort of very helpful, so they'll scoop in a little bit extra. Especially if we're saying, well, there's demand now in Albany or there's demand in Kelmscott. But the other side of the story, Julie, if I may, when the ATO revoked us then we can't give those receipts. So the donations collapsed. So some people took the view, 'Look, we have to keep saying that we are a trustworthy charity.' We've done nothing wrong.

MS ABRAMSON: Yes, so there was a reputational issue. I understand.

VENERABLE METTAJI: So there's the stigma piece.

MS ABRAMSON: No, I understand.

MR SEIBERT: And this is really helpful for us to understand our experiences, and echoing what Julie said, appreciate that it would have been very difficult and a lot of uncertainty and we really do hear that, and I think one of the reasons we wanted to come to Perth is to engage with stakeholders in Western Australia, but also I knew about the Buddhist Society decision came out because this is the area that I worked in, and so really appreciate being able to listen to your perspectives here.

And I think that one difference between, say, what the ATO process is that the ATO administers the tax law. It forms views about what the tax law is or isn't and then it can be challenged in the courts, et cetera. Whereas we're actually thinking here about what's the policy rationale for what's in, what's out, which is sort of a step before sort of the law being made, the law being interpreted by the ATO, and we are thinking as well about sort of the implications for religious and faith-based charities in that context.

For example, I know from my own experience you can have sort of a charity that might be doing community outreach. I imagine that your organisations might do that too in terms of providing services, welfare, that sort of thing, and at the moment they need to set up a separate entity, a public benevolent institution. You have to fit into that definition. So under our draft proposals, there are benefits for charities that, say, a religious charity can get endorsement as a DGR for all of its, say, social welfare activities that it does, for example.

MS ABRAMSON: Which we would assume that you do a reasonable proportion of.

VENERABLE METTAJI: Well, we do it based on demand. So we would visit a lot of prisons, hospices, we run funerals and the like. But we haven't set up a benevolent arm to do that. When I went and checked when this all started, there was a strong pushback that you would never get public benevolent institution status. So if you say through your draft proposal that charities could be held in higher regard, that the anti-war is over, and says if the donors want to support this, they can see a way through to your noble desire for double dipping, which is to say, you can correlate - I know that we can do the maths now, possibly because we went through a

difficult period, but if it's said there was a wider appreciation that the charity could take on these things and it was safe, you know, it was operating under the law - - -

MS ABRAMSON: I can - I'm interrupting you. I can see my colleague looking for the part of the report where we talk about that.

MR SEIBERT: I think it's really helpful to have your feedback about certain - you know, how this would impact your organisation in the context of school building funds and we're very, you know, willing to talk more about that as well. But I think we do have on page 198 of the report, like we actually - you know, we can draw this out further in the final report, the specific example of how, say, a religious charity that undertakes other activities, social welfare, and we recognise very clearly in the report too that faith traditions shape giving behaviours and charitable acts in all sorts of different areas in terms of giving to the community, supporting welfare - - -

MS ABRAMSON: Can I ask too, Krystian - I've read all your submissions and I apologise if I've missed something. Have you put in your submissions the type of work you do that you just described to us? Because the submission we've got is very about, you know, the building fund. But the type of things you're talking about, that would be helpful. It doesn't have to be a long submission. A page is fine. We do all these things. We do missions into prison - - -

VENERABLE METTAJI: No, very happy to do that.

MS ABRAMSON: That would be helpful.

VENERABLE METTAJI: Because as we've been talking, I think - historically the Buddhist (indistinct) in Western Australia may have put infrastructure into buildings because it knew it was covered, as opposed to going off in a different direction and saying having a benevolent arm that did hospice and the like. So what I'm trying to say there is because of the dint of the incentive that the ATO was offering too far over on the building side to give the Buddhist teachings, and then having to fight and say, 'Well, that is a school under the definitions of the law.'

MS ABRAMSON: I think it would be helpful if you set out - because, you know, we all have experiences of faith. I have never yet a faith-based organisation that didn't do the type of things you're talking about. That's part of being a person of faith.

VENERABLE METTAJI: Every day.

MS ABRAMSON: Exactly. So I think that that would be helpful, and one of the most important things I can say is that we have heard what you've said to us, and we've listened very carefully.

MR SEIBERT: Absolutely.

MS ABRAMSON: And thank you, because we would not have heard from your community unless you had taken the time to come to see us.

VENERABLE METTAJI: It was a privilege to come. Thank you.

MR SEIBERT: And your description of the evolution of the system.

MR SOLOMON: Yes.

MR SEIBERT: It's exactly - I couldn't have said it better myself.

MR SOLOMON: Yes, I know.

MR SEIBERT: You know, that is exactly what we're talking about.

MS ABRAMSON: I hope our young people were listening.

MR SEIBERT: Yes, it was very good.

MR SOLOMON: Yes. The last thing I want to say is in legislative terms they talk about grandfathering of existing situations. When you're dealing with infrastructure like schools that have been built over a long period of time that require ongoing support, you should, with respect, give very strong weight to the idea of if there is going to be major change, it covers new funds, not the existing ones.

MS ABRAMSON: We've got some commentary around transition arrangements, and we are thinking about it.

MR SOLOMON: That's really the point I would make.

MS ABRAMSON: No, we understand.

MR SOLOMON: Most strongly that the really harmful impact is the pulling of the rug out from existing projects.

MS ABRAMSON: Well, we've said quite clearly - we're thinking about this; we don't have the answers here yet, which is why we consult - but we've thought about transitional arrangements. So if you had strong views about transitional arrangements we would - - -

MR SOLOMON: Well, I've mentioned them today, but I just wanted to emphasise it at the end.

MS ABRAMSON: Yes, but we'd be quite happy - because when we - we can go to transcript which is fine, but if you wanted to put in something really short, one which describes what you actually do for your community, and then just a paragraph or something on transition which is just what you talked about, Doug, that would be helpful to us.

MR SOLOMON: All right. Okay.

MS ABRAMSON: Thank you.

MR ROBSON: Thank you very much.

MR SOLOMON: Thank you.

MS ABRAMSON: Thank you.

MR SEIBERT: Thank you. Really appreciate you taking the time. Thank you.

VENERABLE METTAJI: Thank you. Thanks for seeing us.

MS ABRAMSON: Thank you. I hope you don't melt when you go outside. Maybe we're just melty Easterners.

MR ROBSON: So we'll take a break and come back at 3.30. Yes.

SHORT ADJOURNMENT

MR ROBSON: All right. I think we'll get started. Welcome Stuart. If you could just state your name and the organisation that you're from. And then we're happy to listen to an opening statement if you've got one, or not. And then we'll get into questions.

MR S. MacLEOD: Sounds good. My name is Stuart MacLeod. I am the executive officer at Fremantle Foundation. Is that enough?

MR ROBSON: Yes. Do you have an opening statement?

MR MacLEOD: Yes. I mean it's probably about five minutes long, if that's all right.

MR ROBSON: Okay. That's good.

MR MacLEOD: I do – I'll read it. I was going to try and do dot points but they're not much.

MS ABRAMSON: You could have done an AI presentation.

MR ROBSON: You would have weirded me out.

MR MacLEOD: Look, I do appreciate the size and the scope of what you're undertaking. And I'll try and keep this statement brief. First off, Fremantle Foundation strongly supports the submissions from Philanthropy Australia and Community Foundations Australia. And we particularly endorse the combined submission outlining a strategic roadmap to growing Australia's community foundation network. You obviously have a mountain of data in front of you. I don't wish to duplicate anything that's already been put on that pile. So I'll try and touch on things from a purely Fremantle Foundation perspective.

Firstly, I wanted to touch on why our community foundations are important from our perspective and why they should be supported in a more proactive way. In terms of creating greater access to philanthropy and community giving, the entry point into structural giving is incredibly low with community foundations. We at Fremantle Foundation have an incredibly diverse variety of named funds, ranging from a few thousand dollars up to almost \$1 million. There are no establishment fees. There's only a minimum \$1,000 grant level. And this sort of thing makes it accessible to anyone, generally, a family business, individual or group across a pretty broad socioeconomic spectrum.

Over the last two years, we have granted 37 per cent and 24 per cent respectively, of the corpus value, which means that that 4 per cent minimum distribution is generally not a concern for our named fund holders. And each of our named fund holders has that space to grow their fund at their own pace until they're ready to grant out.

We also enable real access to collaboration and participation for our community. We run Impact 100 Fremantle, have done for 10 years. That model involves having 100 donors with \$1,000 each pooling that money to \$100,000. They vote on which charity would be served the best and have the most impact from that step change model. And that model is a really exemplary example of the power of true collective giving. So feeling like you can really make a difference with a relatively small amount of money. And joining together with everyone to have that shared experience, it's quite an addictive thing for a lot of people. So it's one way to really harness the power of philanthropy and get people invested in it on a personal level.

In terms of effective giving, the vision obviously for doubling philanthropy is not just focused on quantity. We also need to understand how to give more effectively. So our corpus has grown from \$7,000 in 2010 to \$4.7 million today with almost \$9 million donated to the Foundation over those 13 years. And an incredible \$4.7 million granted out to local WA charities in that time.

So all of these funds were granted to play space charities. These are organisations that are dedicated to understanding their local communities and knowing what projects and what approaches will deliver the best results and outcomes for each dollar spent. We've donated over \$1 million per year for the last two years, to these Western Australian charities with an equivalent full time staff of only two people.

In terms of encouraging and growing community participation, particularly in determining where funds go. In early 2020 in the first weeks of the COVID-19 pandemic, we were inundated by charities seeking funds to assist with those most vulnerable in our local communities. With the impact of COVID-19 becoming clear, we launched the WA Relief and Recovery Fund, which successfully raised \$318,000 over a three month period, which all went directly to local charities providing much needed help to those affected by the pandemic.

Since then, combined with major grants from the Paul Ramsay Foundation and community donors, the WA Relief Recovery Fund has raised \$1.15 million to support communities affected by COVID-19, by bushfires, and by floods. In early January 2023, Western Australia's Kimberley region was battered by Cyclone Ellie, causing the Fitzroy River to rise to record high levels, which devastated property and infrastructure, and left hundreds of people homeless, and cut off close to 40 vulnerable Indigenous communities who rely on services and medical assistance in Fitzroy Crossing.

In response, one our staff members, Sue Stepatschuk, and Kim Collard, a highly regarded Indigenous leader and founder of one of our named funds, the Bibbulmun Fund, partnered with the Paul Ramsay Foundation to raise \$500,000 to support the Fitzroy River community. And together we co-designed a culturally appropriate project delivery and community engagement method that placed community input and knowledge at the forefront of the process. And this involved flying up to Fitzroy Crossing and meeting and consulting with community leaders to identify areas of need where the funding gaps existed. This enabled a community-led process to rise to the top that directed integrated community goals and objectives into the project.

So this is an example of the Fremantle Foundation playing a crucial role in providing access to Indigenous-led philanthropy as well. By supporting initiatives led by Indigenous communities, we've contributed to the empowerment, and self-determination, and cultural preservation of Indigenous peoples.

Over one third of our grants last year went to supporting Indigenous communities and programs. And that's almost \$400,000 in grants for charities and programs supporting our Indigenous population.

So community foundations don't just create social capital. We are an integral part of the social capital of the community. We bring together incredibly diverse stakeholders. We enable communication and collaboration. We create and grow networks of support. We enable the strengthening of social fabric and the resilience of the community as a whole.

Community foundations do deserve more recognition and more support for what they do. They operated with low overheads. They provide an incredibly low bar for entry and access to philanthropy. They create opportunities for local communities to have a direct say in where the funding should go. And they provide, arguably, the best outcomes per dollar in the giving landscape.

Their knowledge, resources and connection to local communities are their greatest assets. With a stronger network of community foundations in Australia, we can do more with less, and we can harness personal philanthropy on a scale never seen before in Australia.

Your first draft report contained some incredibly exciting recommendations that could lead to landmark policy changes. The recommendation to develop a strategy to support community foundations, I believe, is an incredibly exciting start. But perhaps there is scope for the Commission to dive a little deeper and recommend some strategies that could happen now instead of at the end of another length consultation and planning phase. That's it.

MS ABRAMSON: Thank you.

MR ROBSON: Thank you. Julie?

MS ABRAMSON: Yes. Thanks Stuart. We haven't – on the community foundations, it's more that we're interested in what you see as the role of government there. I mean, we've noted the proposal from Philanthropy Australia, so we're interested in the comments around a strategy. What would a strategy look like? Who should participate in it? And what needed to be done? So that's kind of where we were coming from on that particular issue. So interested in your views, Stuart.

MR MacLEOD: Yes, definitely. Look, again I think that submission that Philanthropy Australia and Community Foundations Australia put forward in July, I think that really nailed a few of our thoughts around where government could be involved, particularly around, you know, making it easier for new community foundations to spring forth. I know that when we started, we had – like I said, we started with \$7,000 in the corpus. And that grew organically just donor by donor. Some of our donors came on board with, you know, \$500 to \$1,000. And so it did grow incredibly slowly and organically. And we didn't have that initial endowment, seed amount that sprung us forth.

And so if some community foundations were identified to be in, you know, an area or hot spot that had some philanthropic capacity, then if they were given that initial stimulus package to get set up and established, with some really good guidance and steering from the whole network behind Community Foundations Australia, I think we could see some incredibly successful small foundations start up pretty quickly.

I know, like I said, we're running, you know, \$1 million a year in grants. And we're doing that with, you know, two full-time equivalent staff members. One of those is on three days a week and literally 90 per cent of her role is seeking capacity funding for us to be able to exist. So if, you know, once we get to a point where we are operationally sustainable, so the funds that we charge the trust, pays for our salaries, then we won't have to rely on that extra .6 of a role to go out and shake the tin.

MS ABRAMSON: Can I ask a point about that? Because it doesn't – just for the point of hearing your views on this – community foundations are community. They're from the bottom up. So how would you marry that with a more – with a structure over here that said, 'oh okay, well we'll put funding' – it doesn't matter who it is but – 'we'll put funding into here and we'll put funding over there'. So how would you – it's the same challenge in First Nations type proposals – how would you still keep it community with the hand of bureaucracy?

MR MacLEOD: Well, I think you don't tie the – you're saying you're tying the funding to where the granting is going as well?

MS ABRAMSON: No. My point was that if you had some strategy, and you had some overall view about where funding is going to go, how would you maintain the local in community as opposed to something – it could be a grant – but something from Canberra saying, 'Well, you're going to allocate it here and you're going to allocate it there,' because we know actually the reason your organisations are successful is because they're meeting the needs of the local communities they service.

MR MacLEOD: 100 per cent, but again, the funding wouldn't go through a charity – through a community foundation to a charity with a – sort of from the top down. The funding would just go to the community foundation and then those people involved in the (indistinct) communities that are made up of the community members, they would decide where that funding would go. And primarily, I think what the Community Foundations Australia and Philanthropy Australia strategic report is asking for is more capacity funding to enable those community foundations to secure donors from the community and build that pool and that corpus through those donations.

MR SEIBERT: Yes, but just on that, in terms of – in your submission, you've got sort of, 'For the vast majority of Community Foundations Australia, there's a distinct gap between the service granting, fee revenue and the staff operations – staffing operational expenses.' So there's a, basically, kind of in the lifecycle of a community foundation, is there just a period basically when, you know, there's that mismatch, that there's that misalignment? And when do you get to the point when it kind of – the crossover point? What is that point?

MR MacLEOD: So depending on how you've structured and how effective your structure is, that could be anywhere from 5 million in the corpus to 10 million, roughly. So we're approaching that \$5 million and we've just added one more staff member – which is me, thankfully – and that has enabled our former executive officer just to focus on the capacity funding. We've identified that, if we can raise the capacity funding to a certain level over the next four years and I can bring in enough named funds over the next four years to get us to that between \$8-10 million mark, then we'll be operation-sustainable. So previously, that projection had us 10 years becoming operationally sustainable, but just splitting those roles into capacity funding and named fund – yes.

MR SEIBERT: And so you're saying that, say, the capacity funding is really kind of for that early stage until you can get to that kind of crossover point?

MR MacLEOD: Exactly, yes.

MR SEIBERT: In terms of how that might work, wouldn't there be challenges in the sense of, like, let's just say, WA, like, there's the Fremantle Community Foundation and there isn't a Perth one, so, like, let's just say there was a, you know, a new Perth Community Foundation set up. Does that sort of – obviously has some benefits in terms of it can focus on the sort of issues of – in central Perth, et cetera, but then it again reduces sort of the pool that you can tap into. So how do you sort of decide when new community foundations should be or not in terms of – yes.

MR MacLEOD: Well, I sort of see philanthropy like a muscle. I don't think it has a finite limit. I think the more you work it, the bigger it gets. Do you know what I mean? So I don't think necessarily that having more community foundations is going to take anything away from us. In fact, I can only see it strengthening what we do and the amount of donations that we get as well. For me, community foundations not only provide that funding to the communities that they serve, but they also – they also spread awareness about philanthropy and the joy of giving, which is one of the central things that has to happen if we are to double giving by 2031. We can't just rely on policies to get us there; we have to change the culture of Australia, the giving culture.

So I think community foundations are a great way to spread that understanding of what giving means; and especially when you're giving to people within your community, you can see the benefits of it. You know, you give it to World Vision, you can get a report in the mail, but you can't walk past that well every day or visit the goat that you've adopted, you know. If you've directly contributed to building a state park or a drop-in centre or, you know, something for your local community, then you can – you can see it every day as you walk past it, and that's a big thing.

MS ABRAMSON: Can I ask Stuart about the culture? Is that all right?

MR ROBSON: Yes.

MR SEIBERT: Yes, go for it, yes.

MS ABRAMSON: About the culture of giving, because you just mentioned that. And the Commission doesn't have a view about – well, it does have a view that it's really (indistinct) for government funding for a public campaign. It's not that a campaign doesn't matter, and we know – we've gone to quite a lot of detail in the report about campaigns and when they're successful, but it's a question of who pays for it. We're very interested in what you said, because you're really saying the culture of giving starts local, and we see that in the statistics. We see that people – we did some work on a bushfire region where people actually in the local region, who probably had the least to give, were the ones who gave. So interested in your view about how do you start with big cultural change? Because you've already started to talk about it.

MR MacLEOD: For sure. Well, look, instead of having a media campaign or a marketing campaign that is – that comes from the top down and is funded from and for by the government, you know, you could work with a model where you fund the community foundation network and then they fund their own marketing campaign - - -

MS ABRAMSON: Yes.

MR MacLEOD: - - - because I know that it is something that community foundations want. They want to be able to say that – you know, I still work – I've been working here for a year and my kids still don't know what a community foundation is. So that level of awareness needs to change. Just the ability for, you know, for me to have a conversation; they say, 'What do you do?' 'I work in a community foundation.' 'What's that?'

MS ABRAMSON: Yes.

MR MacLEOD: So there's no surprises that the more awareness we can raise about, you know, the effectiveness and, you know, the strengths of a community foundation will bring more named fund holders onboard. So we're happy to fund that; we just don't have the funds to do it. And asking our named fund holders to fund it, I'm sure they would partially fund it, but it couldn't be the whole thing, yes.

MS ABRAMSON: So the things that would support you – you talk about capacity building, so actually having support to do that, and if you had, like, a campaign, a culture campaign, that would be about the localised nature of it, the community foundation base. Yes. Understand.

MR MacLEOD: Exactly. Yes. And, you know, personally, I could see there being a split between an overall national campaign and some more local grassroots campaigning as well. I think that would be the most effective way to proportion any funds that would come through, yes.

MR SEIBERT: Just on this, I suppose, I think when government gets involved in this space, like, there's also – I suppose it raises expectations too in terms of, if community – there are more community foundations established, then – and government contributes that – and there was an opening question about that – then there can be expectations about sort of, you know, their role growing philanthropy in a community when, you know, organisations come to ask for grants, say, to a local MP or something like that. There's, like, 'Well, there's a community foundation. You can engage with' – do you reckon community foundations would be ready to sort of, you know, take on that bigger role, like, if they are sort of – if there's – if their role is more prominent, they're promoted, et cetera, like, expectations are raised?

MR MacLEOD: Well, as long as the – their growth is keeping pace with the capacity. Do you know what I mean? It's, like, where we are at the moment, we've had to inject a little bit more into capacity than we would normally like just because we're at the point now where the growth has accelerated so rapidly that we feel we need to update our systems processes and get more people and dollars in through the door to keep up with that pace so that we can afford to pay ourselves in a lot quicker time period.

MS ABRAMSON: Can I ask – and I know you want to ask something, Alex – about the taxation nudge, so that, when people put in their tax return, they get, you know, 'Do you want to make a donation?' One of the things that the Commission's thinking about – and I'll just be very direct about this, Stuart – is the ethics of that, because people have to put in a tax – well, you don't have to, but if you earn taxable income you've got to put in a return, and it's a compulsory process; so you'd be using a compulsory process to say to people, 'Do you want to make a contribution' – you know – 'a taxed, preferred donation?' So that's what we're struggling with. What do you see the policy upside of the nudge? Do you think that it would have an effect?

MR MacLEOD: I can't imagine how anyone can answer that question in the negative. Like, there's going to be an obviously uptick in people donating. I know personally that, when someone asks me at a supermarket, 'Do you want to round that up?' nine times out of 10, I'll say 'yes', because it's not a significant amount. And if, you know, you're donating 5 per cent of your tax refund, then that also is an insignificant amount. Not that you would prompt how much they should or shouldn't give, and, you know, obviously, the wording would have to be pretty sensitive around, you know, the understanding that it's completely optional.

But I would imagine, (a) the backlash would be minimal compared to the overwhelming support for an initiative like that, but I also believe that any backlash would be short-lived. It's just like when they put screw caps on wine bottles, everyone kicked up a fuss, and now you get a cork and you're just crying bloody murder, you know.

MR ROBSON: While we're on tax, Stuart, I wanted to ask you about ancillary fund minimum distribution rates. And, you know, you've been involved with PAF and so on. What's your perspective on, you know, (indistinct) right level, should that be raised, lowered, and why. What do you think?

MR MacLEOD: I mean, consultation with, PAF, they feel – I don't see – I don't hear a lot of people that disagree with where it's at at the moment. I think it's a pretty good happy medium between sustainability, especially for a PAF that has essentially gone through its fundraising period and its sort of growth period and it's now in that perpetual phase. So if you can get to that point where 5 per cent enables the funds to at least sustain itself, if not grow a little bit more each year, then that's a good target to have.

We did raise at our previous conversation around this the – I think it was a Canadian foundation or a Canadian state that eliminated that minimum distribution and that actually had sort of an opposite intended – or an opposite logical effect that, instead of granting less, they actually started granting more because they saw less as a floor and – less as a ceiling and more as a floor.

Yes, so, look, I think it's good where it is. It would be an interesting thing; if it was higher, there would maybe be a kick on effect that PAF's had to put more in to make up for the shortfall in growth because they're distributing. And I think if it was smoothed out over that three-to-five-year period, then they could focus on bigger projects that would blitz that sort of 5-6 per cent threshold, you know, once every three or so years, which could be the way some foundations work.

MR SEIBERT: Just on (indistinct) and named funds, we've got a proposal in the draft report around sort of just some additional reporting – as in, at the moment, there's no public reporting on sub-funds; I did a survey a few years ago, like, the only piece of data that there is on them – so around sort of the, you know, just some basic additional reporting about the number of sub-funds, that sort of thing so that there is some data on them. Do you have any views on that, but also on sort of – do you – with your sub-funds, like, do you have any policies in place around sort of how much they're meant to be distributing and not distributing, et cetera, given that (indistinct) who have wide distribution requirement but individual sub-funds don't necessarily have that?

MR MacLEOD: Yes. So I think some community foundations are structured in a way that sort of silos their named funds into growth or, you know, flow through, that sort of thing. I think we're going to have to get to that point eventually so we can plan our investment strategy, but at the moment, no, there's no – there's no differentiation between our named funds and what are –

what is expected of them. We do like to have at least one or two touch points a year with each of our named fund holders to sort of ask them what their plans are, whether they are planning on expanding or growing, so that we can adjust our strategy to match that, yes.

MR SEIBERT: Okay. Thank you. Do you have anything, or?

MS ABRAMSON: Yes, I had one final question. I don't think it's in your submission. Any views you have about volunteering? Because community foundations would interact a lot with volunteers. And as you know, we've been looking at what the barriers might be apart from some government programs and the way in which they're designed, so I'm just interested in your views.

MR MacLEOD: Yes, so at this stage, the volunteers that we engage with are primarily – we have a few interns a year that we get through the McCusker program at UWA. And obviously, all of our directors are volunteers and we also have a volunteer committee that runs Impact100. So all in all, we're probably looking at about 20 volunteers. So it's not a huge amount compared to a doing charity - - -

MS ABRAMSON: Yes.

MR MacLEOD: - - - which would rely on a lot of their workforce being volunteers, but I do know that, you know, especially at the initial stages of a community foundation's lifecycle, they do rely on a lot of volunteerism. Personally, you know, I think volunteerism is a bit of an artform unto itself, being – understanding the individual motivations of each volunteer. They're a pretty diverse bunch of people no matter which organisation you happen to poke your head into.

So, yes, I think there is – there's a real power that can be harnessed with volunteerism, but I think it comes to the point with every lifecycle of every charity that, you know, that line has to go towards the professional side of things and the paid side of things with volunteerism as a support rather than a leading force, yes.

MS ABRAMSON: What do you think – I know I said final question – but you mentioned – before you were talking about your own children and what you do. Do you have any views about young people and volunteering? What type of things that – we've heard, for example, that causes are much more important to young people.

MR MacLEOD: Yes, look, I think – well, for example, when I started my sort of not-for-profit career, that was being the general manager of RTRFM. That's a community radio station. That was an amazing way to harness a lot of youth volunteering because it was a community, if that makes sense.

MS ABRAMSON: Yes.

MR MacLEOD: So I think a lot of people are attracted to volunteerism because of the community that comes with it. Another one of my roles, I was managing a three-day folk festival. We had about 400 volunteers over that sort of week of setup and festival and pack down, and that was an incredible community unto itself with a huge spectrum of ages from, you know, teenagers all the way up to 80-year-olds. So, yes, I think causes are a great way to get people involved in volunteerism, but I think it's the community that keeps people there, yes.

MS ABRAMSON: Thank you.

MR MacLEOD: You're welcome.

MS ABRAMSON: Thanks.

MR ROBSON: Thanks very much.

MS ABRAMSON: Thanks, Stuart. Go (indistinct).

MR SEIBERT: Yes, that was really helpful.

MR ROBSON: Yes.

MR SEIBERT: Appreciate it. Yes, that was great. Back into the heat.

MR ROBSON: Yes.

MS ABRAMSON: Yes, I'm worried all our stakeholders will melt.

MR MacLEOD: I think all our states are going to melt.

MS ABRAMSON: Yes, we're made of strong stuff over here.

MR MacLEOD: You have to be. And I've got Scottish skin, so. Thanks so much for your time. Appreciate it.

MS ABRAMSON: Thanks, Stuart. Thank you.

MR ROBSON: Thank you. Thanks.

MR SEIBERT: No, appreciate it. Thanks again, yes.

MR MacLEOD: Best of luck.

MR SEIBERT: Okay. Last one, I suppose.

MR ROBSON: Okay. Well, welcome.

MS H. HAMILTON: I've lost everybody; all the audience.

MR ROBSON: That's all right. You've got the most important people here. So welcome. If you could just state your name and the organisation where you're from, and then we will take an opening statement if you'd like to make one - - -

MS HAMILTON: Absolutely, yes.

MR ROBSON: - - - and then we'll get into questions. Welcome.

MS HAMILTON: Great. Thank you. Can I just pour myself a glass of water? I've just come across – that's dirty, that's dirty. I just came across the (indistinct).

MR ROBSON: Yes. Maybe use one of these ones. Those ones, yes.

UNIDENTIFIED SPEAKER (Indistinct): I think that's empty.

MS ABRAMSON: I think there's water in this one.

MS HAMILTON: Yes, okay.

MS ABRAMSON: Sorry, we haven't been as prepared for our guests as we should have been.

MS HAMILTON: That's okay. No, no worries. I'm actually very appreciative because I was actually schedule for earlier today and I got moved due to my personal issues to 4 o'clock, so. But then I missed everybody else's. So thank you.

So, yes, good afternoon. Thank you for having me. Heather Hamilton, and today I'm representing St Hilda's Perth Foundation, but, however, I worked for the Council for Advancement and Support of Education four years; I've worked in the higher education sector for 15 years almost and the school for five years, so I've got broad sector experience.

So today, to address the Commission, the draft report on the future of philanthropy, specifically regarding the reconsideration of its recommendation on deductible gift recipient status for primary and secondary schools.

So I'd like to start by saying that the Commission's inquiry on the philanthropy draft report contains some fantastic recommendations, but the most concerning is its suggestion to withdraw the DGR status for primary and secondary school building funds. Providing DGR status to schools as entities similar to the higher education sector I believe would encourage, increase philanthropy support in vital programs such as STEM, art, culture, and align with the government's goal of doubling philanthropy by 2030.

So as I mentioned, I worked at Brisbane Grammar School for over five years as the executive director for community relations, led their fundraising, their marketing communications, enrolments, and sesquicentenary celebrations, so I know firsthand that the school was founded on philanthropy in 1968. And I believe St Hilda's might have been founded on philanthropy as well, 100 and – over 100 years ago.

So like many other schools in Australia, BGS has a long history of supporting the broader community. Such support comes via the provision of facilities. You know, during the sesquicentenary celebrations, became very aware of the historical events, you know, World War I, World War II, the war memorial building that was established through philanthropy back in the 1940s, and, you know, offering resources such as recreational facilities, archives, which definitely is open to the public (indistinct) much support, particularly Brisbane Grammar School, and (indistinct) St Hilda's now, and performing art spaces.

So I very much believe that the withdrawal of DGR status would lead to decreased giving in the school sector. And, you know, as far as I'm concerned, a school is just a catalyst for philanthropy. It supports education. It's not about the school; it's about what those funds support. And support of community initiatives, jeopardising, you know, school projects, the

likely decrease in donations. Donations currently fund scholarships for students in financial need, which that's not, from what I understand, not being – isn't proposed to be revoked which is fantastic. Capital projects, much needed capital projects, particularly for buildings that are aging; and I'll come back to that, but student fees does not cover the cost, necessarily, of all those capital projects, even in what are deemed to be the wealthier schools. And then libraries, benefitting not only students but also the broader community.

Other points for noting, capital projects at schools, often funded by donations, do take years to complete. Many donors, including parents, do not directly benefit from these investments. I'm a donor myself. My daughter was actually gone from the school by the time the infrastructure projects were finished. My daughter graduated, yes, well before a number of the projects were completed. So as a – I know this as a past parent of St Hilda's and in my role at Brisbane Grammar School.

The school fee structures are carefully managed to align with a family's capacity to pay. And I know that very well from working at Brisbane Grammar School, again working with the board of trustees. I was (indistinct) with them. The fees cover the cost of the education, not always the capital projects, and certainly not producing scholarships for students in financial need.

A concern about the misconceptions in the report about donor motivations. As I mentioned, I've been a donor before. The reference to converting tax-deductible donations into private benefits overlooks the altruistic motivations of donors, again, like myself. From my experience, donors to schools, including myself, give to causes they care about, such as education, with the intention of benefitting society and not for personal gain. And I worked with a lot of donors who were across the pond in places like New York and donating through 501(c)(3)s to support much needed infrastructure developments; the boarding school, for example. (Indistinct) was in dire need of it.

So instead of removing DGR status aligned with the higher education sector, I suggest broadening DGR scope to include much needed programs to support wellbeing, educational equipment, attracting talented educators just like the higher education sector. It would align with donors' interests and contribute to success of schools and the broader community.

I will acknowledge that some schools in past – I don't know about any more – they have encouraged standard contributions to building funds on, you know, fee statements, for example. I do know that, when I was at Brisbane Grammar School, there was a request for a building fund contribution, which I lobbied with the board of trustees to get it removed because I didn't think that we should blur the lines, or what actually looked like it was potentially blurring the lines, of that view that, you know, it was – and it was going into separate accounts; one was DGR-related, one was, obviously, the school accounts for – however, I don't necessarily agree; I just think that it creates too much confusion in the community.

And as a parent, I used to get building fund on my due statements for my daughter's school and I found it extremely annoying. So I would recommend that we look at just continuing such practices in favour of more authentic fundraising campaigns for building projects as practiced by the majority of independent schools.

If the Commission's recommendation proceeds, I feel that the five-year transaction period is critical to mitigate the impact on ongoing projects and honour donor intent, given it's not unusual for donors to make commitments through two-to-five – for two-to-five-year pledges. I know that

again through (indistinct) precinct that we – I started the campaign for at Brisbane Grammar School. There's still pledges being – the building's done, finally – there's still pledges ongoing.

As a board member of St Hilda's Foundation, along with peers from schools, we stand, obviously, ready to support the – and collaborate with the Commission and the Australian Government to help facilitate change in the sector, if that's what's required to at least ensure that we retain that DGR status – or my desire would be to see it broaden like the higher education sector – achieve the (indistinct) goals and support the education sector's future.

(Indistinct) DGR status schools aligns with the goal of doubling philanthropy by 2030 and ensures the provision of quality education for Australians. And in conclusion, I urge the Commission to carefully reconsider the recommendation on DGR status for building funds considering the long-term implications for education philanthropy in the broader community. Thank you for your attention.

MS ABRAMSON: Thank you for that. That was, yes, very helpful and, yes, comprehensive opening statement. Once I looked at a question around the transaction arrangements – and you said, if it was to go ahead, you know, you think five years is – I don't want to misquote you – but five years is when - - -

MS HAMILTON: Yes, I said 3-5 years - - -

MS ABRAMSON: Yes, yes.

MS HAMILTON: - - - because that's how long a pledge can be in a donation.

MS ABRAMSON: Yes. Yes, okay.

MS HAMILTON: So you've got to pledge for five years and someone's just got – received that pledge for a capital project - - -

MS ABRAMSON: Yes.

MS HAMILTON: - - - you know, what – that donor, you have to be able to honour the donor's intent, yes.

MS ABRAMSON: Understood, yes. So, yes, one of the questions we're thinking about in this context is, you know, we're very supportive of government having a role in the provision of school infrastructure, so the question, really, is, the context of a DGR system where we think it's not underpinned by sound policy principles, we develop some principles and apply those. But whether, you know, if there was, for the sake of my – of argument, a Gonski-style capital standard, which is not in place at the moment – like, there's obviously arrangements around recurrent funding under (indistinct) government agreements and so on – but the question really is, yes, what is it about the DGR donation system that we have at the moment that, in your view, makes it better than potential system of government grants?

MS HAMILTON: Is it what's better? I guess my view – (indistinct) – my concern around government grants is the process of going through to achieve that, whereas you go through – you identify – you – like, right now, for example, at St Hilda's, there's master planning happening or you're master planning at Brisbane Grammar School, so we look way to the future to understand what our needs are and going through all the different capital projects and understanding where

there's gaps and also what the financial situation looks like at the school. So it enables you to do your master planning and also do your philanthropic campaign planning, whereas government funding – and, again, I can't comment (indistinct) because it's just – that, you know, that could – I guess, for a lack of better words – do I use the word 'bureaucracy'? But I'm going to use it – the process of going through the grant process would slow it down.

MR ROBSON: And so that's a, in your view, would you say, government grants are less flexible in terms of, like, the kind of things - - -

MS HAMILTON: What you can achieve, yes.

MR ROBSON: - - - and then also more time consuming?

MS HAMILTON: Time consuming, yes, throughout the (indistinct) process, yes.

MR ROBSON: Yes, okay. All right.

MS HAMILTON: I just think, if the STEAM Precinct that we fundraised for, which a very small percentage of the funds were raised through philanthropy for that building at Brisbane Grammar School I'm referring to.

MR ROBSON: Yes.

MS HAMILTON: It's an outstanding building. I liken it to a medical research institute now that will be open to community use.

MR ROBSON: Yes.

MS HAMILTON: And I think it'll even – engagement with a university, the higher education sector, for use of that building, but there was only so much they could achieve from a bank.

MR ROBSON: Yes. But one of the - - -

MS HAMILTON: For funding, or capital raising, yes.

MR ROBSON: Yes, one of the other issues we're thinking about in this report – and you just raised it – was, you know, notwithstanding any direct connection between donors and (indistinct) private (indistinct), if, you know, if there was a requirement to make facilities available to universities or the general public, you know, do you think that's – that kind of requirement – which was common, we understand, in the Building the Education Revolution funding, that there was a specific clause there – do you think that that would be a reasonable way of proceeding to, I guess, to assure the taxpayer that 'Oh, this is not just a racket arrangement between parents and the school; it's actually - there's a broader benefit here to the community because those facilities have been opened up.'

MS HAMILTON: I think more transparency around ensuring that there's a broader benefit to the community is important. I think there's also a lot of work to be done around the perception that it's a racket. When I started working at Brisbane Grammar School, I was asked by a lot of alumni why does the school need funds? That was a common question that I spent my first year - it was about an education process with the community and the alumni community around the cost of the education, and the community and the PNF and that I think more broadly there needs

to be a lot more of that education to demystify that it's a racket, because, you know, absolutely, like to -

So I've done - been doing a little bit of work around ethics and fundraising, and again, just a conversation we had at the board of trustee level and with ethics and fundraising, critically important. So it's a process of education. And I think it's broadening your external engagement within the higher education sector. Absolutely I think it's a great idea. It's not even an idea; it is happening. But it's just not as well communicated or shared.

MR ROBSON: Yes, okay, thank you. Krystian and Julie.

MR SEIBERT: Yes. In terms of sharing the facilities with the community, how is that operationalised in terms of when you've got school buildings et cetera, and are they made available to - because I think you mentioned that you do (indistinct) how does that actually work?

MS HAMILTON: I think every school is very different and there's a spectrum of maturity of the organisation, but at Brisbane Grammar School we had a - in fact it got moved into my office, just management of requests to use the school facilities, and we did get often exams written in the indoor sport centre. You would have the whole indoor sports centre filled with writing the ATAR exams. So there's a definite process that goes to facilities management so that the school we have facilities management. Not all schools, depending on the size, would had such - but I hosted a conference there.

MR SEIBERT: And what sorts of fees were charged for those sorts of uses?

MS HAMILTON: Minimal. Yes, minimal, yes.

MR SEIBERT: Because, yes, we did see with the BER guidelines that there was little or no fee at all charged, but then there's other buildings, yes.

MS HAMILTON: Yes, yes, very little, yes. As I said, I hosted a conference for CASE just before I started working with CASE, and I hosted it in one of the buildings for the school's community. The only thing that we paid - we covered all the cost of the venues; CASE covered the cost of the caterer. So there's catering that they have, and it's usually - - -

MR SEIBERT: Noting that, yes, different schools will be different, what proportion of the donations come from parents versus alumni versus other donors?

MS HAMILTON: Again, that was a process of engagement for me when I started, and you can see that everything goes in cycles. The parent community as we went through a sesquicentenary that was part of a process to engage them more. A lot of the funds weren't coming from the parent community. There was no annual giving fund. The funds predominantly were coming from alumni. My first two major donors were from two donors that lived in New York and one funded supported the boarding house, and the other one was for students in financial need for a scholarship in perpetuity.

MR SEIBERT: So what proportion do come from parents normally?

MS HAMILTON: It changes, so we would measure it and I think it was three or four per cent. Small.

MR SEIBERT: And so, would you know, say, in the most recent years what proportion it would be?

MS HAMILTON: No, I don't because I've been gone for five years with CASE - working on CASE four years now.

MR SEIBERT: And what about at St Hilda's?

MS HAMILTON: St Hilda's would be similar because it's just the program has just grown, really. So they're really turning to a lot of alumni. So their heritage centre is predominantly from past alumni - old scholars.

MR ROBSON: Julie?

MS ABRAMSON: No, I might not have any questions.

MS HAMILTON: Because you have a lot of parents - so the reputations are when you're in a school and you're fundraising, you have a lot of parents that say, 'I'm paying fees right now. I'm not supporting philanthropically.' You get that a lot feedback - kickback.

MR SEIBERT: And in terms of does your school have any sort of like - because in England and Wales there's actually a requirement under charity law there that their independent schools they have sort of partnerships with other schools to demonstrate a broader benefit to the community, so there's a lot of background to why that's the case, but does your school have other partnerships with other schools and other organisations, et cetera, in terms of supporting their facilities or anything like that? Or is, you know, (indistinct)?

MS HAMILTON: I think it's more general relationships at this stage. At Brisbane Grammar School we worked very closely with the girls school, Brisbane Girls Grammar School. So we have like a sister school, a brother school. We also had - it's called a group of nine - nine schools that we were like-minded schools that we supported each other and had relationships from that perspective. But formally, again, I can't comment because it's been five years since I was at Brisbane Grammar School and what's happened in the time that I've been away? I do keep in touch but, yes.

MR SEIBERT: So just to confirm, you're saying that the parent contributions at St Hilda's are sort of in the low sort of single figures.

MS HAMILTON: The small stuff, yes. Yes.

MR SEIBERT: And so who - so it's mostly alumni and that sort of thing, yes. And do you ever get people just unconnected to the school wanting to donate?

MS HAMILTON: Yes, absolutely. I was often surprised.

MR SEIBERT: And what are the reasons that they sort of - - -

MS HAMILTON: Generally for stuff like that it's for students in financial need, (indistinct) programs. So it's - in the UK there's quite a high percentage of students in financial need within the schools needs wide(indistinct) and that's common in the US too, so that's becoming more - that diversity goal is becoming more prominent here, and at Brisbane Grammar School, we have a goal to increase the number of students on financial need. Didn't want it to be just deemed as a school for, you know - - -

MS ABRAMSON: If I can ask you about bequests, because I have been told - and I'm pretty sure this is accurate - that the bequests that girls schools get different from the bequests that boys schools get so that - - -

MS HAMILTON: In what way?

MS ABRAMSON: Well - and this is actually factual, because what happens is that a husband will leave in a will - he'll say, 'Oh, well, I want to leave it to a particular school,' and the widow will make the same donation. So she won't donate to her school; she'll donate to the husband's school. So there's a differential between the bequests. So have you seen that in practice?

MS HAMILTON: No, I just - again, bequest to me is a bequest, and is treated just as that. Never heard of that happening.

MS ABRAMSON: Yes, no, I know it's actually a - - -

MS HAMILTON: Whether you're a girls school or a boys school.

MS ABRAMSON: Yes, so that was the direct - it's interesting that you've not seen that. It's a direct thing that the women were not leaving to their own old school; they were leaving to their husband's school. Maybe it's a Melbourne thing.

MS HAMILTON: So there's a - well, no, there's a - okay, now that I understand a little bit more of your question. You can see - and trying to change that in the work that I was doing with CASE a little bit too, trying to debunk the theories just that women give less than men. As it turns out, some work that we did and some research we did in the US was that women - the quantum of what they're giving is less, but they're giving as much. But with bequests - and it's not just bequests, it's donations as well. So just like within the higher education sector. You'll have a donor who has an affinity for one university - but they might have been to two - but not the other. So it's all about their experience and affinity.

Brisbane Grammar School we had very high affinity with the school, so much so that I had donors that were UQ graduates as well as school graduates, but they gave to the school not to the university or they gave it split, but I would think - suggest that potentially a better couple where their affinity was very high for the boys school but not so much for the girls school. Because I think boys schools have been a little bit better in engaging the community, and so they - but St Hilda's is doing a fantastic job under the current leadership on engaging the broader community.

MS ABRAMSON: Thank you.

MR ROBSON: How sensitive do you think donations are to DGR status and that tax price? Because our evidence in our draft report is that in general we have found that that tax reduction is effective at encouraging giving, but it could be - you know, obviously different taxpayers have different situations. If they're in a higher income bracket I get 47 cents in a dollar, whereas if I'm

in the lower it might be 19 or 32.5 or 37 or so have you. So I'm interested in - I think you said you got a lot of donations from alumni, and I imagine that might be liquidity events in some cases or it might be some other reason, or if it's from - - -

MS HAMILTON: It's education.

MR ROBSON: - - - people New York who - I don't know if they're Australian taxpayers or not, but then they wouldn't be sensitive to DGR, so I'm just wondering what's your sense of if this was to go ahead, this draft proposal, what would be the impact on donations?

MS HAMILTON: Well, I think the impact would be high. So even my donors in New York - I'm sure you're familiar with the 501(c)(3) that they established in the US. This particular donor didn't want to donate until I - this is someone that's extremely high net wealth - didn't want to donate until we had the membership with (indistinct) USA so that he could achieve his 501 - you know, the tax-deductible status. And small donors too. At the end of the day, I don't know if you're on a \$80,000 salary, \$100,000 salary and you make a donation to the - you like any support we can through you - you like to contribute to the education but also through your tax return. So I think it would reduce the amount of donations whether you're on a high net wealth (indistinct).

MR ROBSON: Thank you.

MR SEIBERT: That's all good for me, yes.

MR ROBSON: Yes. Thank you very much.

MR SEIBERT: Thank you. Yes.

MS ABRAMSON: Thank you, Heather, and thank you for being our last candidate of the day. Thank you.

MR ROBSON: Lucky last.

MS HAMILTON: 4.20.

MS ABRAMSON: Thank you. Or in our time it's a bit later.

MS HAMILTON: You're finished? Or is this your last?

MR ROBSON: Yes, so I'll just formally open discussion for any brief comments. Have to do that. No-one needs to do that?

MS ABRAMSON: No, unless our transcript fellow.

MR ROBSON: No, that's okay.

MS HAMILTON: Those bits where I fumbled a bit you can just delete it.

MR ROBSON: Fix that up, yes. At yes, okay, with that, I'll close today's proceedings formally and thank all the participants.

MS ABRAMSON: Thank you.

MR ROBSON: Thank you.

MS HAMILTON: Thank you. Thank you for having me.

MATTER ADJOURNED