

Submission to the Productivity Commission Review of Philanthropy

5 May 2023



**HUMANE SOCIETY
INTERNATIONAL**
AUSTRALIA



This submission is made on behalf of a coalition of seven of Australia's leading animal welfare charities, being the Australian Alliance for Animals, Companion Animal Network Australia, FOUR PAWS Australia, Animals Australia, Humane Society International Australia, World Animal Protection Australia and Voiceless, the animal protection institute.

We make this submission to raise awareness of the specific concerns of animal welfare charities in relation to existing charity regulation and its effect on philanthropic giving in Australia.

We commend the positive action of the government in instigating this inquiry and support moves to review the outdated standards and irregularities of current laws, build philanthropic giving and identify opportunities to grow this giving further to enhance charitable work.

We are united, willing and ready as a sector to work with the government to help improve charity regulation to create an environment for philanthropic giving which reflects the values and expectations of the Australian community, reduces the burden on donors and charities, and enables animal welfare and other charities to focus their efforts on doing the most good.

Our submission is divided into the following sections:

1. Opportunities to increase philanthropy in the animal welfare sector
2. The case for extending tax concessions to animal welfare charities
3. Support for submissions from partner networks.

Sections one and two address the anomalies in the current Australian Charities and Not for Profit (ACNC) system, where the laws and data collection are inconsistent with charitable and public giving expectations. Our submission focuses specifically on the ways in which current

charity regulation negatively impacts on many animal welfare charities due to the restrictive definitions that sit within the DGR and PBI frameworks. We have also provided case-studies to illustrate how these issues directly impact individual animal welfare charities or are dealt with internationally.

Section three outlines our support for a number of cross-sectoral issues raised by the Stronger Charities Alliance (SCA) and Charities for Impact (CFI) initiatives. In particular, we support the vision of the SCA for a thriving not-for-profit sector where charities are empowered to advocate for lasting change in pursuit of their charitable purposes. We also support the recommendation from CFI that government should empower donors to be able to assess and compare charities based on evidence of their impact.

Thank you for considering our submission. We would be very happy to discuss any aspect of our submission with the Commission or provide further information if needed.

Please direct any correspondence in relation to this submission to Dr Bidida Jones at the Australian Alliance for Animals, via connect@allianceforanimals.org.au or 0426 025329.

1. Opportunities to increase philanthropy in the animal welfare sector

The following section outlines the anomalies in the current Deductible Gift Recipient (DGR) framework which mean that donations to many animal welfare organisations are not currently tax-deductible in Australia. Addressing these anomalies has the potential to significantly increase philanthropy in the animal welfare sector.

1.1 Limited and outdated DGR scope of eligible animal welfare charity activities

The *Charities Act 2013* recognises animal welfare, defined as ‘preventing or relieving the suffering of animals’, as one of 12 specifically listed charitable purposes. However, animal welfare is not recognised as a specific category under the *Income Tax Assessment Act 1997*. Instead, animal welfare charitable activities are included in the category of ‘Welfare and rights’ (which is primarily aimed at human welfare and rights) and the scope of what constitutes an animal welfare charity is much narrower than the ACNC definition. Under the Income Tax Act definition, for an animal welfare charity to be eligible for DGR status, their principal activity must be either or both:

- Providing short-term direct care for animals (but not only native wildlife) that have been lost, mistreated or are without owners
- Rehabilitating animals that are orphaned, sick or injured (but not only native wildlife) that have been lost, mistreated or are without owners.

This narrow definition of an animal welfare charity means that the only groups able to claim deductible gift recipient (DGR) status are those working on behalf of native wildlife or providing direct animal care services such as rehabilitation or sheltering. The limited scope of this definition results in a huge range of charitable activities being excluded from tax-deductibility, resulting in entire groups or species of animals being completely overlooked or under-represented as worthy of benefitting from DGR status.

This inequity has resulted in many market-leading, local animal charities, as well as global charities with Australian entities, operating without being able to offer tax deductions to their donors or being forced to quarantine donations for specific cause areas into specially administered funds. These are all charities registered and reporting to the ACNC, whose work focuses on recognised and legitimate projects for the betterment of animals, and who receive significant support from the Australian public.

Areas of animal welfare work excluded from the ATO definition of animal welfare include:

- Global animal rescue missions such as the transport, rescue and relocation of wild animals kept under inappropriate conditions (including bears, elephants, big cats and more, often used for entertainment or tourism, or privately kept).
- Engaging and advising industry stakeholders, agricultural bodies, United Nations, World Organisation for Animal Health, governments, animal research institutions, shelters and smaller animal care groups on best practice animal welfare, as it relates to regulations, policies, public guidance, and best practices.
- Tackling legalised cruelty in animal systems to align with modern day community expectations and standards (e.g. animal experimentation, factory farming, slaughter facilities, hunting and feral animal management).
- Disaster preparedness and resilience as it relates to animals.
- Disaster and crisis emergency response for animals, such as the recent earthquakes in Türkiye and Syria, rescue of animals from war zones, Australian bushfires and floods.
- Provision of scientific research, specialist veterinary advice, insights into animal behaviour and how it relates to animal welfare e.g. how this links to the five domains of animal welfare (nutrition, environment, health, behaviour, mental state).
- Raising awareness and campaigning for better conditions around key animal welfare issues impacting Australian animals such as live exports, puppy farming, animals in entertainment (racing, zoos), mulesing and welfare conditions for farmed animals.
- Researching and exposing illegal practices as they relate to animals, such as the mislabelling of real fur products in NSW as 'faux fur' misleading Australian consumers.

- Investigations demonstrating non-compliance with current regulations and animal welfare standards, e.g. humane slaughter and keeping conditions, mislabelling consumer products, conditions on live export vessels.
- Community education and awareness on animal welfare issues.
- Provisions of advice and guidance on best practice responsible pet ownership, benefiting the community at large.
- Rehoming and providing ongoing direct care to wild animals in species appropriate sanctuaries, for animals who are not able to be returned to the wild.
- Representing public interests on the commercial hunting of Australian native wildlife.
- Stray animal care including rabies vaccinations, catch neuter release (CNR/TNR) programs, feeding of stray animals or animals without owners, mobile veterinary care, community education.
- Holding truth to power - animal welfare advocacy and lobbying on behalf of the Australian community when industry or government are not making decisions that are representative of their constituents interests.
- Collaborating with government and health organisations on global health initiatives such as 'One Health, One Welfare', highlighting the human health risks of industrial animal agriculture e.g. in the creation of pandemic treaties, or via the passing of UN resolutions such as the Animal Welfare – Environment – Sustainable Development Nexus resolution, adopted an UNEA-5.

It is time to redefine the scope of animal welfare under the ATO DGR criteria to recognise the value of the vital and broad body of work being done for the benefit of animals and the wider community.

1.2 Out of touch with community values and penalising generous Australian donors

Animal charities are consistently in the top three causes Australian donors support,¹ with 41% of givers classified as 'highly motivated' to support this cause. Animal welfare is also a key concern of donors giving in response to natural disasters. The majority of Australian donors seek to contribute to organisations associated with disaster response in Australia. This was the top cause to give to across the board, and in the top two causes by generation.²

¹ <https://morestrategic.com.au/australias-most-popular-causes/>

² <https://library.workplacegivingaustralia.org.au/2023-nfp-insights-the-charities-landscape/>

Case study: Animals Australia

Animals Australia is a large ACNC-registered charity with a significant donor base. It is not currently eligible for DGR status.

Animals Australia's key recognised charitable purposes are 'preventing or relieving the suffering of animals' and 'advancing public debate'. In 2021-22 Animals Australia received \$14.39 million in donations and bequests. Animals Australia is not eligible for DGR status because its principal activity does not meet the ATO's definition of an animal welfare charity.

As an animal protection and advocacy organisation, Animals Australia's mission centres on highlighting and directly calling for change in laws, systems, and sectors that cause large-scale suffering of animals and to call on the community to take progressive steps to raise the standards of animal care and protection. This includes (but is not limited to) the live export industry, factory farming and other animal 'production' industries, and the commercial and non-commercial killing of wildlife.

The current criteria set by the ATO means that Animals Australia is not eligible for DGR status because, as an organisation, its core work does not provide 'hands on' direct assistance to animals through rescue and shelter work, nor does it work at the species level to assist threatened wild species. This narrow ATO criteria overlooks the critical advocacy and public education work being done by Animals Australia to address the root causes of suffering for millions of animals. The current criteria largely only acknowledge the suffering of companion animals and wildlife and fails to acknowledge that hundreds of millions of animals also suffer in our agricultural sector, our food systems, and many other areas where animals are 'used' commercially (e.g. hunting, racing, display).

Without Animals Australia drawing attention to conditions aboard live export ships and importing countries, within factory farms, and providing investigations into the lack and violations of animal welfare protections in the agricultural and entertainment sectors, the public would be unaware of and powerless to address the cause of suffering for animals. The Australian community has shown through its response to animal emergencies (Black summer bushfires for e.g.), responses to animal cruelty exposés (heat stress to live exported sheep, cruel slaughter of Australian cattle in Indonesia), awareness and concern about cruel systems through consumer choices (battery cage eggs, sow stalled pork), and consistently in surveys and polls, that they care about animal welfare and wish to live in a country with kinder treatment of animals.

In addition to this, Animals Australia (through its grants) provides critical support in emergencies and disaster relief in some of the most deprived areas of the world, where conditions for animals are severe and their lives are at risk. Internationally this includes war zones, hostile political climates and countries experiencing catastrophic natural disasters. All of this work is widely supported by hundreds of thousands of people in Australia and internationally, and yet those donors/donations and this work is not eligible for DGR status.

To have DGR status would no doubt further empower people to confidently provide financial support for this work - especially in the current unstable economic climate. DGR status for Animals Australia would also recognise those for whom animal protection is an important issue and acknowledge the value that this has on creating a safe and functional society.

Perhaps most importantly, obtaining DGR status for all charities with the recognised charitable purpose of preventing or relieving the suffering of animals would validate the core belief of Animals Australia supporters and of the organisation's mission – that all animals deserve to be treated fairly and with kindness and respect, regardless of their species or 'value' to humans. Acknowledgement of this view is a fundamental courtesy to the hundreds of thousands of people who support the work of Animals Australia.

Australian donors overwhelmingly report a desire to address and solve the root cause of an issue (70%), rather than meeting the immediate need (30%)¹. This demonstrates that donors are not just interested in direct care of animals, but also the crucial prevention work that animal welfare charities do, including advocating for better laws to protect animals and improvements to animal welfare standards, public education and disaster preparedness.

It's clear from these statistics that the Australian public recognises that animal welfare is not limited to direct rehabilitation or direct care, and consistently show their overwhelming support for the broad scope of work conducted by animal charities within Australia and overseas. However, these donors are prevented from enjoying the benefits of tax deductibility when donating to their favourite animal welfare charity because of the outdated barriers placed on animal welfare charities in Australia.

The work of animal welfare organisations whose work focuses on addressing and preventing systemic issues, is of clear and vital importance to the Australian philanthropic community, and modern DGR regulations should reflect this. Removing the barriers that animal charities currently face will ensure that all donors to this cause area are recognised for their charitable giving rather than being disadvantaged for caring about and supporting animal welfare and protection.

1.3 Remaining competitive and true to mission in order to fulfil charitable purpose

The ACNC have noted the critical need to support charities through the current tough labour market.³ Coupled with the Labor government's goal to double philanthropic giving by 2030,⁴ addressing the inequalities in the current DGR regulation presents a straightforward opportunity of to achieve both of these goals.

Animal welfare charities are unfairly and increasingly disadvantaged during times of economic downturn compared to charities with DGR.

This market pressure, together with restrictive DGR eligibility criteria, places undue pressure on animal charities to shift their critical mission in pursuit of receiving DGR status. This significantly hinders progress, and the critical broader work that animal charities undertake. Indeed, it is testament to the resilience and commitment of these charities (without DGR status) that they have not shifted from their allegiance to a holistic view of necessary animal welfare reform.

³ <https://probonoaustralia.com.au/news/2022/11/exclusive-meet-the-new-acnc-commissioner/>

⁴ <https://ministers.treasury.gov.au/ministers/andrew-leigh-2022/media-releases/harnessing-generosity-boosting-philanthropy>

1.4 Lack of clarity and consistency under current regulations

The labyrinthine and inconsistent DGR criteria also means that animal welfare charitable activities can fall across two DGR categories under the Income Tax Act; 'Welfare and rights', or the Register of Environmental Organisations (REO). For example, some animal welfare charities working with native animals have found a pathway to achieving DGR as an REO as the scope of activities covered under this category is far broader than applies to the animal welfare category.

To be eligible for the REO, organisations must have a principal purpose of either:

- the protection and enhancement of the natural environment or a significant aspect of the natural environment; or
- the provision of information or education, or the carrying on of research about the natural environment or a significant aspect of the natural environment.

The scope of activities covered under this category is far broader than applies to the Animal Welfare category as it includes protection of native animals and providing information, education or carrying out research.

The work of many animal welfare charities registered as environmental organisations covers a broad range of animals, but they can only claim DGR status for activities that directly relates to the protection of native animals, effectively devaluing their work in other areas.

In addition, to be eligible for DGR status under the 'Welfare and rights' category, an animal welfare charity's 'principal activity' must be one of direct care or rehabilitation, however no legal criteria is supplied to define what constitutes 'principal activity'. This requirement can result in charities experiencing additional pressure to shift or adjust their critical mission to fit within ambiguously defined criteria.

The vital work of providing direct care for animals who cannot be returned to the wild is explicitly excluded from the current DGR eligibility criteria and species-appropriate animal sanctuaries and zoos are currently lumped together despite having vastly divergent goals and missions.

Genuine species-appropriate sanctuaries provide a home for animals who cannot be rehabilitated or returned to the wild, and in fact many animals residing in animal sanctuaries were rescued from inappropriate keeping conditions in zoos. Species-appropriate sanctuaries provide a necessary service, medical care, diet and home for animals who cannot be returned to the wild and promote the protection of rescued animals. They do not allow any captive breeding of animals for profit, whereas zoos are a commercial business operating primarily for profit from display animals.

Case study: Tax-deductibility of FOUR PAWS entities across the world vs in Australia

FOUR PAWS Australia is an ACNC-registered charity not currently eligible for DGR status. FOUR PAWS Australia is the Australian-based entity of a global animal welfare organisation for animals under direct human influence, which reveals suffering, rescues animals in need and protects them.

FOUR PAWS' sustainable campaigns and projects focus on companion animals including stray dogs and cats, animals in fashion, and wild animals – such as bears, big cats, orangutans and elephants – kept in inappropriate conditions as well as in disaster and conflict zones. FOUR PAWS are actively committed to the humane treatment of stray dogs and cats as well as to better keeping conditions for companion and farm animals. They have established and operate sanctuaries worldwide, in which wild animals rescued from abusive captivity find a species-appropriate home.

FOUR PAWS takes a problem-solving approach and offers animals in distress swift and direct aid. Their aim is to achieve and establish changes in politics, society and the economy that will benefit animals – through projects, campaigns and education. Their work is based on scientific expertise, sound research and intensive national and international lobbying.

Founded in 1988, the organisation advocates for a world where humans treat animals with respect, empathy and understanding. Today, with offices in Australia, Austria, Belgium, Bulgaria, France, Germany, Kosovo, the Netherlands, Switzerland, South Africa, Thailand, Ukraine, the UK, the USA and Vietnam, as well as 13 species appropriate sanctuaries across the world

Unfortunately, FOUR PAWS Australia stands out among our equivalent peer entities across the world, as a major fundraising country without tax-deductibility or tax-exemption, despite fulfilling the same mission and activities for animals. FOUR PAWS Germany, USA, France, Austria, South Africa, Bulgaria, Switzerland and the United Kingdom are all granted tax exemptions or deductions for their donors in support of the work of FOUR PAWS.

In addition to Australia, Austria is the only operating country of FOUR PAWS who have additional restrictions or criteria specifically targeting animal charities. And even so, this small legacy exclusion in relation to advocacy is expected to be amended in upcoming legislation as a result of overwhelming public support in Austria for the change.

This stark contrast shows just how out of step with the rest of the world, Australia is pertaining to animal charities.

1.5 Non-DGR charities excluded from fundraising opportunities

Diversification is key to fundraising success and to maintaining stable and diverse sources of income. In order to fulfil our charitable purpose, organisations benefit from the ability to plan our future impact in the short, medium and long term. To do this effectively, stable and consistent sources of income are needed, but unfortunately the current restrictive DGR eligibility criteria means that critical fundraising channels such as workplace giving, corporate fundraising, major donor and philanthropic giving (particularly from Trusts), Instagram & Facebook fundraisers, PayPal Giving Fund, and various third-party fundraising and crowd-funding platforms are either unavailable, or severely limited without DGR status.

Limiting the available fundraising channels is a point of frustration to many donors who contact our organisations seeking to fundraise via commonly used fundraising platforms and channels and forces us to turn down donor funds in a challenging economic climate. The size of charitable gifts, especially from major donors and philanthropists is also severely impacted by lack of tax-deductibility, with many current and potential donors expressing frustration that they feel forced to give a smaller gift than they intended. In the case of most Australian philanthropic Trusts their internal constitutions/rules expressly prevent distribution to charities that do not have DGR status. These restrictions not only place unnecessary roadblocks in the way of organisations trying to raise funds in a competitive market, but also penalise generous members of the public who would like to support our work.

Case study: Workplace Giving

The government can foster workplace giving by lowering practical barriers, providing support and guidance, and the collection and monitoring data. It is about the efficacy of different approaches. The incentive could be managed similar to superannuation and pre-tax incentives with inclusion of commonly used business accounting programs such as MYOB and Xero.

Working closely with current successful organisations such as Workplace Giving Australia, Good to Give and Share Gift Australia, who developed the One Million Donors program with the Australian Government in 2014,⁵ using and refining current systems and programs, this initiative is low costs and reaps high benefits to government and charities.

Running national strategic campaigns to promote awareness and increase motivation to companies and employees, this ongoing program will ingrain and secure philanthropy at a deeper level throughout Australia.

It will also increase philanthropy from a community-wide perspective, with low costs and high benefits to the government and charities.

We refer to Workplace Giving Australia's pre-budget submission to outline the opportunities of this form of corporate giving, including making workplace giving clearer, removing administrative barriers for charities, and an awareness campaign to promote to all Australians the importance of workplace giving.⁶

2. The case for extending tax concessions to animal welfare charities

The Fringe Benefits Tax Assessment Act 1986 provides Public Benevolent Institutions (PBIs - charities that provide benevolent relief to people in need) and health promotion charities a capped exemption from Fringe Benefits Taxation and a capped Meal, Entertainment and Holiday Benefit. These exemptions acknowledge the valuable work of health and PBI charities in

⁵ <https://www.1mdonors.org.au/>

⁶ <https://workplacegivingaustralia.org.au/app/uploads/2023/04/Pre-Budget-Submission-by-Good2Give-January-2023.pdf>

improving human welfare and recognise the importance of providing charities with incentives to attract and retain suitably qualified and skilled employees in their sectors.

However, a system which only allows specific types of registered charities to access these taxation concessions creates an uneven field between organisations which have all been determined to have public benefit and fails to reflect the value that the Australian community places on caring for animals and reducing animal suffering.

2.1 Community support for animal welfare and the importance of the human-animal bond

As previously stated, animal charities are consistently in the top three causes Australian donors support, reflecting the importance that the community places on caring for animals and reducing animal suffering. Social research surveys also consistently report high levels of community concern for animal welfare and indicate that this concern is increasing over time.

Furthermore, animal welfare charities also contribute to improving the welfare of humans. The health and welfare benefits of the human-animal bond are both measurable and indisputable. The impact of this relationship between humans and other animals directly affects the overwhelming majority of the Australian community through the role of companion animals in society. Over two thirds of Australians own a pet, annually contributing over \$12.2 billion per annum to the Australian economy. Recent studies demonstrate pet ownership saves almost \$4 billion in health expenditure each year; this is a very significant and powerful contribution.

2.2 Creating a level playing field and optimising the use of donor money

Animal welfare charities need to remain 'competitive' with other organisations in order to fulfil their charitable purpose. An important element of this is attracting and retaining the 'right' people - a key to any organisation's success. Within the NFP sector, this has direct impacts on how donations are optimised within the organisation. On top of values-alignment, it is critical to appropriately resource organisations with a team of people with specialised skillsets that will deliver the organisation's purpose in the most effective and efficient way.

Post-COVID, it is increasingly harder for charities to compete in the broader labour market. The current skills and candidate shortage means that organisations need attractive benefits to appeal to candidates. It has always been a challenge for NFPs to compete with commercial market on salaries. Along with values alignment and the opportunity to contribute to a greater purpose, flexibility used to be a key competitive advantage that helped attract talent to NFP organisations. Post-COVID, flexibility has become a norm and an expectation (rather than an added benefit) across all industries, including the public sector and commercial industries, reducing this competitive advantage. On top of this, the impacts of inflation have caused significant financial strain on many households across Australia. Which means that salary is often

becoming a greater or even key driver over purpose – purely out of necessity for people to maintain individual living standards or even pay the mortgage or rent.

Charities able to offer salary packaging arrangements are more attractive to candidates as this can increase their net take-home pay, at no additional cost to the charity. This not only increases a charity's chances of securing high-quality staff, but also increases retention rates, thus minimising the costs of staff turnover (e.g. productivity losses, recruitment costs and training costs) which are currently estimated at 1.5 times the annual salary of a role.

Due to the FBT (and therefore additional operational costs) that salary packaging attracts, it is generally only charities who are eligible for a full FBT exemption that offer comprehensive salary packaging to their employees. The current system means that animal welfare charities are not eligible for full FBT exemption and therefore unable to offer comprehensive salary packaging.

Expanding current tax exemptions to incorporate animal charities would reflect community sentiment regarding the importance of animal welfare. It would also enable animal welfare charities to optimise the way donor money is spent by offering competitive salary and benefits packages to attract and retain highly skilled staff who are able to work more productively and efficiently.

3. Support for submissions from partner networks

We support the vision of the Stronger Charities Alliance of a thriving not-for-profit sector, where charities are empowered to advocate for lasting change for our communities and endorse their submission to the Inquiry.⁷ Empowering charities who advocate for better outcomes for people, animals and the environment would better reflect community expectation and strengthen societal trust in our democratic processes.

We also support the Charities for Impact submission which calls for the empowerment of Australia's impact-focused not-for-profit organisations. This includes reforms to the philanthropic giving regulatory environment which will support charities which are motivated by their impact, advocate for better outcomes, and foster social cohesion.⁸

We also support the Fundraising Institute of Australia submission which echoes our concerns about the current restrictions placed on animal welfare charities in terms of DGR status and supports expanding the scope of eligibility for animal welfare charities.⁹

ENDS

⁷ <https://www.strongercharities.org.au/>

⁸ <https://www.charitiesforimpact.org.au>

⁹ <https://fia.org.au/>