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NFP Sector Tax Concession Working Group
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Comments on the Discussion Paper on Tax Concessions for the not-for-profit sector

The Conservation Council of South Australia (Conservation Council SA) is a peak body representing over 50 member groups whose main purpose is conservation and protection of the environment. Conservation Council SA is an independent, non-profit and strictly non-party political organisation that runs environment programs, researches and advocates in relation to environmental challenges and solutions, and educates and engages people about what they can do to help.

We thank the NFP Sector Tax Concession Working Group for the opportunity to comment on the Discussion Paper which is clearly set out and relatively easy to read (given the complexity of the tax issues involved).

The Conservation Council is a charitable institution endorsed to access FBT and GST concessions and income tax exemption, as well as holding DGR status. In forming our thinking on tax concessions and making this submission, we have had discussions with a number of environment groups and have recently conducted a brief survey of the tax status of our members. Many of our members are small groups falling below the tax threshold, while the larger organisations are endorsed income tax exempt charities and most have DGR status. We also have a range of members who share our environmental goals, but have purposes other than environmental protection. These groups may self-assess or be eligible for concessions in other categories of charities, and again, some are below the taxable threshold.

The Conservation Council has also signed on to a joint submission made to the Working Group by a number of conservation land owning NGOs. That submission raised a number of issues and proposals which were not in the Discussion Paper and

while they only apply to particular types of environmental activity, we are keen for the Working Group to also consider such tax concessions which benefit the promotion of environmental protection and restoration. These may be very different to the more general tax concessions for charities.

In terms of the issues raised in the Working Group Discussion Paper and applicable more generally, we believe that the most important and positive proposal in the paper is the extension of DGR to all charities and the abolition of the public funds. Obviously the definition of "charity" will be crucial in this discussion, but from the perspective of charities whose dominant purpose is the protection of the environment, these two proposals would expand support for environmental protection and reduce unnecessary red tape.

DGR status

DGR status is vital to many environment organisations whose primary source of income is donations from the public. It is also vital for major project work funded from philanthropic sources. Environment organisations acquire DGR status either by being listed in s30.55 of the *Income Tax Assessment Act 1997* or by being approved by the Environment Minister to be placed on the Register of Environment Organisations (REO). There is no transparency about why some organisations are listed in the Act, and why others have to make separate application via the Register, and it is probably even more unclear to the general public why donation to one environment organisation is tax deductible but a donation to a similar organisation is not.

The need to make application to be on the REO can also be an onerous, politicised process – particularly where environment groups are engaged in policy advocacy. We know of instances in the past where groups have waited two years to have their application assessed by the Minister and this played on the group's mind and functioned as a constraint on their environmental advocacy – and their fundraising.

As the peak body for the conservation movement in South Australia, we value the work of all environment groups and believe that DGR status should be extended to all groups. This would be a particular benefit to small groups whose overheads are lowest, precisely because they may not have the administrative structures to go through the extra processes of applying for DGR status. These groups are also at a disadvantage in fundraising – they do not have the fundraising expertise and resources of the bigger organisations, but they are doubly punished because the big NGOs are given a market advantage by being able to offer tax deductibility to donors.

Again, all environment protection work is important and should be fully and equally supported by tax concessions. Given this, and extrapolating to the rest of the charity sector, **we support the extension of DGR status to all charities as proposed in Option**

2.1 and 2.2 (we make no comment on the issues separating the two options) of the Discussion Paper.

The Public Fund

The requirement that environmental charities with DGR status establish public funds is both unnecessary and problematic. Maintaining a separate public fund requires extra volunteer time to be on the fund committee, and volunteer or staff time to find appropriate people, organise meetings, and establish and maintain separate bank accounts and organisational accounting. And it unnecessary as it based on elitist and old-fashion notions of respectability of “responsible persons” and/or an unfounded assumption that somehow the people appointed to manage the fund would be more responsible than Management Committees of organisations – despite the legal requirements on the management committee members.

While the Conservation Council has recently reviewed its appointments and processes around the public fund, we know anecdotally of a number of organisations across different sectors where the Public Fund managers/trustees were appointed in good faith, but over time lost touch with the organisation and the Fund is managed without them. Alternatively, the trustees are simply a rubber stamp channelling money into the operational accounts of charities. By contrast, if they did make alternative decisions about disbursement of the public funds, this would be confusing for donors and members of an organisation who rightly expect that the monies donated to the organisation would be controlled by that organisation. Ultimately though, we suspect that in many instances the requirements and responsibilities of managing the fund are simply ignored and the real management of the money lies with the Management Committee (as it should), but in which case the separate public funds serve no useful purpose and simply add a layer of unnecessary bureaucracy.

The Conservation Council also has its own recent experience of the requirements for depositing monies in the public fund leading to cash flow issues because we were unable to draw down money that had been donated to us until we could get a meeting of the Fund Committee together. It was only a short-term problem, but points to the broader problem that the separate account creates a situation where Management Committee have legal responsibility for the affairs of the Association, but may not always have control of all the resources of the Association.

The very proper requirements of the public fund rules in TR 95/27 around the use of the fund monies and distribution on dissolution of an organisation can and should be dealt with in the constitution of Associations and the governance standards under the ACNC Act. They do not require a separate public fund.

For all these reasons, the requirement for a separate public fund should be eliminated as recommended in Option 2.9 of the Discussion Paper.

We note that the terms of reference for the Working Group require it to identify offsetting budget savings from within the NFP sector for any proposals that have a budget cost. Setting the parameters around budget neutrality rather than around the sorts of supports that might be needed to promote activity to address climate change or biodiversity loss, for instance, is short sighted at best. However, even within this unwisely constrained approach, we note that the abolition of the public fund is revenue neutral. The extent of the budget impact of extending DGR status will depend in part on what definition of charity applies, but if it was a choice between extending DGR status to all charities and maintaining all FBT concessions, we would opt for extending DGR status as it is more transparent and the benefits are likely to accrue to a broader range of particularly smaller organisations.

We would be happy to provide further information if the Working Group wishes.

Please contact me on Ph. 08 82235155 or email at tim.kelly@conservationsa.org.au, or Dr Greg Ogle (gregogle@senet.com.au) who is our Executive Committee member with carriage of this issue, if you have any questions or follow-up in relation to this submission.

Yours,



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Dr Greg Ogle
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