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The Manager Philanthropy and Exemptions Unit
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The Treasury
Langton Crescent
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Re: Consultation Paper – A Definition of Charity

Thank you for the opportunity to comment on the paper.

My principal comment is on paragraph 144, concerning the statutory provisions stated to exist in “some states” severing non-charitable purposes in a mixed purpose trust.

Since, as I understand the situation, there is legislation in all mainland states dealing with this subject, it would be very unfortunate if such trusts could not be included as charitable. Such recognition could then provide the stimulus for the other jurisdictions to enact similar provisions.

The relevant provisions are:

Victoria: Charities Act 1978 s.7M
New South Wales: Charitable Trusts Act 1993 s. 23
Queensland: Trusts Act 1973 s.104
South Australia: Trustee Act 1936 s. 69A
Western Australia: Trustees Act 1962 s. 102

There are also statutory provisions in some states dealing with the control by government issue (SA Trustee Act s.69D and Victoria Charities Act s.7K) and the provision of recreational facilities. (SA Trustee Act s.69C) It would be worthwhile examining these in formulating detailed provisions.

Yours faithfully,



R.P.D. Wright