

SUBMISSION ON THE EXPOSURE DRAFT CHARITIES BILL 2003 BY THE AUSTRALIAN GOVERNMENT DEPARTMENT OF AGRICULTURE, FISHERIES AND FORESTRY

This Submission addresses issues relating to the taxation treatment of contributions made to voluntary community based natural resource management groups that might arise from the proposed Charities Bill 2003.

Background

The Department of Agriculture, Fisheries and Forestry, working through the Natural Heritage Trust and the National Action Plan for Salinity and Water Quality provides support for activities to improve natural resource management in Australia carried out by landcare and catchment and regional management groups. These are non-profit groups, established and run by volunteers for the purpose of addressing natural resource management problems that are a common concern.

The Submission aims at assessing how the definition of charities and related organisations affects landcare and catchment and regional management groups. To be eligible for funding from the Natural Heritage Trust and National Action Plan for Salinity and Water Quality the groups are required to be incorporated, usually under State or Territory legislation. Group activities provide benefits to the local community or region and, in many cases, contribute to the wider national interest by improving the natural environment. In general, benefits to individual group members are difficult to identify and measure.

Impact of the Legislation

Landcare and related groups are, in some circumstances, eligible for concessional treatment under Australian taxation legislation. Those landcare groups which are non-profit organizations established to enhance or protect the natural environment or to promote ecologically sustainable development may be eligible to apply for registration as an 'environmental organisation' and obtain Deductible Gift Recipient status from the Australian Tax Office. This allows all taxpayers, either individuals, trusts or other types of taxpayer donors to the group to claim a deduction for their donations from their tax. In addition, some of the activities of the groups, or of group members on behalf of their group to advance the objectives of group projects, may be eligible for taxation concessions or rebates, depending on how the group is defined.

The consistent treatment of the definition of landcare groups as 'community service not-for-profit' or 'charity' groups is important for the effective functioning of the groups. A more widespread adoption and application of the 'community service not-for-profit' definition, rather than for just Commonwealth taxation legislation, is likely to benefit landcare and similar groups. This might enable them to seek eligibility for rebates or exemptions from some state or local government taxes, levies and charges that can affect their ability to undertake projects. Landcare groups tend to have few financial reserves and are reliant to a large extent on volunteer labour and in-kind contributions. Any payments they are required to make which are not directly related to their projects therefore detract from the ability to complete or undertake projects.

The proposed legislation is supported as it applies a sufficiently broad definition of charitable groups that would benefit landcare groups. The proposed legislation does this by requiring that groups be not-for-profit, have a dominant purpose or purposes that are charitable and for the public benefit, and by specifically including self-help bodies with open and non-discriminatory membership. This would ensure that landcare groups continue to benefit from taxation treatment of charities.

Part 2, subsection 4(2) of the draft legislation is particularly important for the operations of landcare groups as it provides open and non-discriminatory self-help groups with exclusion from the requirement that a charity group provide a public benefit. Many, and probably all landcare groups would be classed as open and non-discriminatory self-help groups, being organised and managed by the same group of people that would benefit, but not necessarily exclusively from the group activities. While landcare activities do often provide public benefits, activities in many cases are designed to benefit group members as a collective or community. For the landcare program, the distinction between community and private benefits is as significant as the distinction between public and private benefits, and it is important that this be recognised in the draft legislation, as it does in its current form.

This Submission therefore endorses the view of paragraph 1.45 of the Explanatory Material to the Exposure Draft that the exemption of self-help groups with open and non-discriminatory membership from the public benefit test recognises the valuable role of self-empowerment in addressing disadvantage, discrimination and need, as well as the role of members of these groups in assisting other persons suffering from the same problem. Self-help groups harness the experience of members to assist the group as a whole in dealing with the relevant disadvantage, discrimination and need.

This Submission also supports the view in paragraph 1.78 of the Explanatory Draft that the establishment of a specific category of charitable activities for the advancement of the natural environment recognises the increased value that society places on the natural environment, and the unique value of Australia's natural environment. The view of paragraph 1.79 that in the case of many environmental purposes, the public benefit is clearly demonstrated, is also supported. As many environmental assets are public benefits, activities that promote these benefits also provide benefits that are freely available to all.

Conclusion

The proposed legislation takes into account the range of circumstances that affect the activities of landcare groups and will assist the groups in taking advantage of the taxation benefits that are available to groups carrying out public benefit activities. The proposed legislation is therefore supported.