

**Queensland Cancer Fund
Submission to The Board of Taxation**

Consultation on the Definition of a Charity

Organisation: Queensland Cancer Fund
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General Comment

The Queensland Cancer Fund is pleased to see the introduction of the Charities Bill 2003 and in the main agree with the direction and purpose of the Bill. To provide clarity to the definition of a charity will hopefully provide some certainty to the process of registering charitable organisation.

It is also welcome that the scope of charitable purposes has been clarified in Part 3 of the Bill.

There are however some sections of the Bill on which we wish to comment and these are details further in this document.

Dominant (main) purposes of Queensland Cancer Fund

The Queensland Cancer Fund is the pre-eminent cancer charity in Queensland and is the state member of The Cancer Council Australia. The Queensland Cancer Fund is solely community funded.

The Queensland Cancer Fund since its establishment in 1961 has been a vital link between the community and people with cancer. A diverse range of activities is structured within our aims.

The Queensland Cancer Fund is community funded and is a Public Benevolent Institution.

Its purpose is to raise money from the community and direct that money to:

- Funding cancer research
- Conduct programs in cancer prevention and education
- Provide cancer support services and information on cancer
- Support cancer treatment centres
- Ancillary to the above is an advocacy role on behalf of the community in the area of cancer control.

Our Mission Statement states:

*Medical Research has successfully beaten most disease – it will beat cancer.
The Queensland Cancer Fund raises funds which are dedicated to eliminating cancer
and diminishing suffering from cancer through Research, Treatment, Patient Care,
Prevention and Early Detection.*

Our programs and support services are directed across all sections of the community either to those people affected by cancer or those seeking more knowledge about cancer.

These programs are delivered by staff and/or volunteers. The volunteer involvement exists across the total range of activities and program areas of the Queensland Cancer Fund.

Principal reasons for our submission.

1. Disqualifying purpose – Clause 8

We agree with the following disqualifying purposes:

- unlawful activities
- advocating a political party or cause and
- supporting a candidate for political office.

However we are concerned as to the intent and/or possible implications of clause 8 (2) (c) – the purpose of attempting to change the law or government policy

The core definition (clause 4) primarily requires a charitable institution to be a not for profit entity and have a dominant purpose that is charitable.

Under dominant purpose (clause 6) the charitable institution is charitable if and only if:

- it has one or more of its purposes that are charitable; and
- any other purposes that it has are purposes that further or are in aid of, and are ancillary or incidental to, its purposes that are charitable

These seem in conflict with the disqualifying purpose under clause 8.(2).(c). Both clauses 4 and 6 allow a charity to have ancillary purposes whereas clause 8 does not allow ancillary purposes that are more than ancillary.

The problem arises in that there is no independent arbitration provision on what is acceptable and what is more than allowable.

Changes to law or government policy can often be achieved through advocacy. We perceive our role in advocacy on matters relating to cancer as being one of the many expectations placed on the organisation by the community.

We provide the research, cancer support services, information and preventative messages to the community and advocacy on behalf of that community is a prime ancillary endeavour to continuous advancement in cancer control.

Clause 8.(2).(c) should be either deleted or amended to relieve the present implications, perhaps unintended, of the clause.

It is recommended that clause 8 be amended to accurately reflect the recommendations of the Report of the Inquiry into the Definition of Charities and Related Organisations ensuring charities are expressly permitted to engage in advocacy in pursuit of its charitable purpose and the benefit of those they seek to benefit.

2. Application to Commonwealth legislation only

The intent and application of the Charities Bill 2003 is directed solely to Commonwealth legislation. It would be a desirable outcome for the Commonwealth to encourage state legislators to adopt the same definitions into their legislation affecting charities.

A uniform approach to the definition of a charity would remove current confusion and administrative difficulties.

Endorsement with the Australian Taxation Office

The Queensland Cancer Fund is currently endorsed as an Income Tax Exempt Charity. There appears to be no impediment in the Bill that would preclude a continuation to that endorsement other than the interpretation of the disqualifying purpose [clause 8 (2) c]

Additional administration burden

This is difficult to determine from either the Bill or the Explanatory Material attached to the Exposure Draft of the Bill. Further clarity is required on the compliance expectations on charities once registered.

Current reporting requirements established by the Australia Securities and Industry Commission exist for charities (not for profit organisations) that are structured as public companies limited by guarantee. Further reporting past that already in place would obviously add to the administration burden

In stating this view, we are supportive of adequate reporting measures directed to ensuring all registered charities can maintain confidence of the community and meet their expectations on the expenditure of funds raised by charities.

Flexibility of Charities Bill

Looking at the role undertaken by the Queensland Cancer Fund in the community, we perceive that the Bill offers us the flexibility to meeting the changing needs of society in the future.

Public Benefits Test – “Altruistic”

We can see no benefit to requiring an “altruistic” purpose as a dominant purpose to the public benefit test. The tests as they are current written clearly outline the requirements for a charity. Also it would necessarily require a subjective approach as to what in fact is the altruistic which might in turn be a disadvantage to the charity.