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Council SA

Committee Secretary
Joint Standing Committee on Electoral Matters
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**Inquiry into the conduct of the 2016 federal election:
political donations**

28 September 2017

Dear Committee Members,

The Conservation Council of South Australia (Conservation SA) is the peak conservation body in South Australia. Conservation SA is an independent, non-profit and strictly non-party political organisation representing around 60 of South Australia's environment and conservation organisations and their supporters. Conservation SA is committed to a healthy environment for South Australia. Conservation SA was founded in 1971 and has operated with good standing with State and Federal Government agencies since that time.

We appreciate the opportunity to make this submission. We understand and support the inquiry's consideration of political donations and agree that Australia's political system needs to be transparent, fair and free from undue influence.

We have seen instances of political outcomes being determined not by what is in the public interest, but by political donations from entities acting in their own self-interest. This is not acceptable in a modern democracy and would certainly contribute to Australians' documented distrust of political leaders¹.

We do not support the suggestion that regulation of political donations should be expanded to include charitable organisations, for the following reasons:

1. Charitable organisations are already strictly regulated by the Australian Charities and Not-for-profits Commission (ACNC).
2. Charity status is only granted by the ACNC to organisations that meet strict criteria.
3. One of these is that the organisation must have at least one charitable purpose (from a list of 12).
4. Another is that an organisation is not eligible if it has a purpose that is:
 - a. engaging in, or promoting, activities that are unlawful or contrary to public policy, or
 - b. promoting or opposing a political party or a candidate for political office

¹ See study by Swinburne University, available at <https://www.vista.org.au/documents/item/2766>

5. However clause (b) above does not prevent the charity from engaging in political debate and supporting parties with policies that align more closely to its charitable purpose. The ACNC states²:

The Charities Act makes clearer the existing law on advocacy and political activity by charities. A charity can advance its charitable purposes in the following ways:

- ***involving itself in public debate on matters of public policy or public administration through, for example, research, hosting seminars, writing opinion pieces, interviews with the media***
- ***supporting, opposing, endorsing and assisting a political party or candidate because this would advance the purposes of the charity (for example, a human rights charity could endorse a party on the basis that the charity considers that the party's policies best promote human rights), and***
- ***giving money to a political party or candidate because this would further the charity's purposes.***

The ACNC also notes³: "If a charity undertakes any activities in relation to an election, it must comply with all electoral laws, including disclosure requirements".

As well as the ACNC having appropriate powers to regulate the activities of charities, members of the public also have the power to report any inappropriate conduct (eg related to electoral processes) to the ACNC for investigation.

Clearly there is already a strong regulatory regime for charities when it comes to political advocacy, as there should be.

There would be inappropriate, unnecessary duplication if charities were regulated by the Australian Electoral Commission as well as the ACNC, just as it would be inappropriate for organisations regulated by the AEC to also be regulated by the ACNC.

Any additional regulation would tie charities up in even more onerous reporting requirements than they already have. We do not believe community members would support their donations having to fund an increase in paperwork and red tape.

The community has very high trust in charities. A recent study⁴ by the ACNC found that charities were the third most trusted of ten categories of institutions after doctors and police. Charities are more trusted than the High Court, Reserve Bank or ATO.

Another study by Swinburne University⁵ found that community leaders (defined as those who lead the civil society, charitable and not-for-profit groups) are trusted far more than political, business, trade union and religious leaders.

The same study found that Australians consider community leaders to be much more concerned with public interest than private interest, unlike all the other categories.

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https://www.acnc.gov.au/ACNC/Register_my_charity/Who_can_register/Char_def/ACNC/Edu/Edu_Char_def.aspx

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http://www.acnc.gov.au/ACNC/Register_my_charity/Who_can_register/What_char_purp/ACNC/Reg/Advocacy.aspx

⁴ See www.acnc.gov.au/trustandconfidence

⁵ <https://www.vista.org.au/documents/item/2766>

The ACNC guidelines on political advocacy support the ruling of the High Court of Australia, which found in the 2010 Aid/Watch case that advocacy activities are an important and valuable contribution to the public good.

It is well understood that many of society's greatest leaps forward were achieved by community groups engaging in advocacy, pushing for changes that might have been deeply challenging to governments of the day, but which are now accepted as having been hugely necessary and beneficial. The policies that were previously in place - eg allowing slavery or denying basic rights to women – are now considered completely unacceptable.

We have advocacy to thank for showing us a better way and helping our society to evolve.

There is no need and would be no benefit to extending regulation for political donations to charities and other organisations whose primary purpose is for the public benefit.

We would be happy to elaborate on these points in person.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Craig', followed by a horizontal flourish.

Craig Wilkins
Chief Executive