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COMMITTEE

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Board Of Taxation  
C/ The Treasury  
Langton Crescent.  
Parkes ACT, 2100

### Charities Bill - 2003

Thank you for the opportunity to provide comment on the draft Charities Bill 2003. At the outset we wish to inform the Taxation Board that the Bill is very good and covers a range of aspects which we feel required some 'tightening'. Our comments on the proposed Bill will be listed simply and without emotive commentary. In addition we are delighted, as a charity, to provide input to the review.

The Australian Paralympic Committee (APC) and its members represent people with a disability who associate with sport. We play a leadership role in advancing the physical, psycho-social and knowledge in related disability areas. In particular we deal with people during their post injury rehabilitation period and specifically use the intervention of sport to promote personal development and achievement. An aim of the APC is to build an individuals confidence, desire and capacity to fully embrace the wider Australian community. A common recovery pathway for young or adult aged people with a severe injury, and disability is:

- Rehabilitation
- Home/Work Lifestyle focus
- Sports/Leisure focus
- Main stream community involvement

#### 1. Legal Comment

We accept that the evolution of the charity definition derives from common law, particularly as they deal with Trusts. In particular we note and endorse the need to provide a legislative definition for a charity. This essentially acknowledges past and proposed future practise.

I would point out though, that in a recent contractual dispute with a landlord we had difficulty searching for precedent in 'equity' law dealing with non profit charities that are commercially aggrieved. I feel some benefit would come from some cross 'rulings' in common law (charitable trusts) that link with equity.



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## 2. Key definition issues

We note 1.28 – 1.32 relating to dominant purpose. In particular we feel that 1.31 gives cover for organisations such as the Australian Paralympic Committee who could argue the advancement of community and social welfare, health and education. We do however **disagree** with the non recognition of sport and/or recreation as a single driver for either health, or social and community welfare and therefore being listed specifically in the proposed charitable definitions. We feel sport should be listed. It is proposed sport and related recreation is listed [with some qualifications] as an 'other' purpose in section 1.84 because it is beneficial to the community.

It is arguable that sport and related recreation is for 'public benefit'. In particular we note the type of non-profit sport and recreation organisation that offers advancement to people other than 'members' who through its activities protects, maintains, supports, conducts research and improves the situation of an individual (or groups) health and wellbeing. Sport and recreation, coupled with dietary intervention, is used by medico's to combat obesity. Groups therefore established for the promotion and conduct of sport and recreation should therefore qualify as a charity due to their multiple but related purposes aimed for 'public benefit' i.e. reduction in obesity. I would however, make them change their constitutions to be 'of public benefit' first, and through sporting activities for a subset of the wider community offer related health and education services as freely as they possibly can.

*The Australian Paralympic Committee contends that the promotion, provision and advancement of sport for the disabled could qualify as a public benefit because the related care, treatment, rehabilitation, accelerated personal and related psychological development, plus expansion of human knowledge of the disabled and their movement capacities. We the APC do this directly, and through specific health and related sporting plus educative providers service athletes with a disability. We also offer scholarships in conjunction with others for athletes with a disability and in our domain have established trademarks principally covering our purpose and activities. Most people we deal with are young and have significant special needs. They use this opportunity to find 'purpose' during the post rehabilitation period.*

With these things in mind we wish to argue that an organisation such as ours may have mutually beneficial purposes as provided for in 1.15. These could involve both the charitable or altruistic purpose as well as an 'other' sporting purpose. Many of our 'member' organisations such as Wheelchair Sports Australia, Blind Sport Australia, Ausrapid etc reflect this notion in their existence, operations and constitutional framework. It is to be noted that through necessitous circumstances in the 1960-80's groups such as ours were established to provide for disabled persons.

Finally we wish to applaud this wonderful initiative by the Government and see the adoption of such legislation as vital to the advancement of charities in Australia. In practical terms it does not matter what dominance a purpose is given in a constitution but rather the work performed the advance public benefit either directly or vicariously through sub sets of more broader community involvement.

Yours Faithfully

A handwritten signature in black ink, appearing to read 'Darren Peters', with a large, sweeping flourish extending to the right.

Darren Peters  
Chief Executive Officer