

Blind Citizens Australia

Mr R Warburton
Chair
The Board of Taxation
Via email: charitydefinition@taxboard.gov.au

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Dear Mr Warburton

Re: Consultation on the Definition of a Charity

Blind Citizens Australia appreciates having the opportunity to make comments regarding the workability of the definition of a Charity proposed in the draft legislation.

Blind Citizens Australia is currently a charitable organisation and we presume that we are an organisation intended to fall within the proposed definition of a Charity. The definition of a Charity contained in the draft is not helpful and appears to be unnecessarily restrictive. We share the concerns expressed by other organisations regarding the limitations of the draft definition. Before expanding on these concerns we would like to give the Board an overview of Blind Citizens Australia.

Blind Citizens Australia is the national consumer organisation of people who are blind or vision impaired. Our mission is to achieve equity and equality by our empowerment, by promoting positive community attitudes, and by striving for high-quality and accessible services which meet our needs. A key function of Blind Citizens Australia is the provision of peer support to our members and people who are blind or vision impaired generally. Our branches provide opportunities for social interaction and self-help support and enable people who are blind and vision impaired to lobby locally for improved access to services and facilities. The dissemination of information relevant to our members is a core purpose. We achieve this through our quarterly newsletter, available in alternate formats, our weekly radio program, our state-based audio magazines and our web site. In addition we provide support to individual members and other people who are blind or vision impaired who may have experienced

discrimination or received poor service due to their disability. Finally, Blind Citizens Australia provides advice to government, corporations and community organisations in relation to issues which affect the lives of blind and vision impaired people and lobbies for improved social welfare at the systemic level.

Blind Citizens Australia is a not-for-profit entity and we consider that we have a dominant purpose which is charitable. We do not need to meet the public benefit test as we are an open and non-discriminatory self-help group.

A cursory consideration of the definition of charitable purpose does not at first raise significant concern. Blind Citizens Australia considers that through our local branches and our State and national offices, we provide, peer support, information services and advocacy which advance the health, education, and social and community welfare of people who are blind or vision impaired. Blind Citizens Australia would also argue that in promoting and defending the civil and human rights of our members a purpose which is described as a valid purpose in the explanatory memorandum, we satisfy *(1) (g) any other purpose that is beneficial to the community.*

However, the explanatory memorandum, in describing what is generally intended by the definition, is not very reassuring. The focus is undeniably on direct service delivery in the traditional sense which is not a function of Blind Citizens Australia. For example, in relation to education, Blind Citizens Australia provides peer and advocacy support to students and parents and works with blindness agencies and schools and universities to ensure that students who are blind or vision impaired get equal access to education services and facilities. Our purpose is clearly charitable but does not, without some manipulation and creative thinking, reflect the content and intent of the explanatory memorandum.

Apply the same focus on direct service delivery to the advancement of social and community welfare and Blind Citizens Australia meets the same difficulties. Nonetheless, we believe that through our peer support work, the activities of our local branches, our individual advocacy on behalf of people disadvantaged in the labour market and promotion of social and economic participation through systemic as well as individual advocacy, that we do advance the social and community welfare of people who are blind or vision impaired.

Although self-help groups do not need to meet the public benefit test, they still need to meet the charitable purpose definition. It is possible that the asthma support group described in Example 1.3 of the memorandum would not meet the charitable purpose definition which is surely not intended. In addition, the

definition of self-help groups contained in the explanatory memorandum is too limited. The memorandum states:

- 1.45 The extension of these groups 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 in these groups in assisting other persons suffering from the same problem. The self-help groups harness the experience of members to assist the group as a whole in dealing with the relevant disadvantage, discrimination and need.

Although the definition does generally describe our core functions, the limitation of this definition is that self-help groups are perceived as deriving from a medical model rather than a social model of disability. Our members focus on creating positive community attitudes to blindness and vision impairment and eradicating disadvantage in terms of access to the built environment, education, employment, cultural and recreational activities and political processes. Our focus is not on curing blindness or on providing support based on a medical model of disability.

Related to this issue and of particular concern to Blind Citizens Australia is the requirement that a charitable body does not have a disqualifying purpose. *Attempting to change the law or government policy* is stated to be a disqualifying purpose *if it is more than ancillary or incidental to the other purposes of the entity concerned*. The definition of open and non-discriminatory self-help groups recognises that they exist for the purpose of assisting individuals affected by disadvantage or discrimination or unmet need. Disadvantage, discrimination and unmet need are intrinsic to our social and political context, they do not occur in a vacuum. People with disabilities are one of the most disadvantaged groups in our society. Blind Citizens Australia strives to ensure that people who are blind and vision impaired enjoy the same human rights and have the same opportunities as other Australians. This frequently requires empowering people to use existing social welfare programmes and legal avenues to benefit them. It also often requires our organisation to frequently attempt to change the laws or government policies which do not enhance the empowerment of our members. We believe it is counter-intuitive that the explanatory memorandum includes as a charitable purpose *the promotion and protection of civil and human rights* and at the same time requires that the purpose of attempting to change the law or government policy be no more than ancillary or incidental.

Blind Citizens Australia believes that the draft legislation is contradictory and confusing. We believe that the charitable purpose definition is workable but its

description in the explanatory memorandum is unfairly restrictive. We think that the promotion and protection of civil and human rights should be specifically referred to in section 10 rather than be covered under the catch-all provision, *any other purpose that is beneficial to the community*. We seriously question how that purpose can be achieved if the purpose of attempting to change the law or government policy can be no more than ancillary or incidental to that purpose. To be sure of charitable status an organisation could only promote and protect civil and human rights on a basis which is ancillary and incidental to the organisation's main direct service purpose. Surely this is not intended by the legislation. We cannot all be distributing blankets and handing out soup. The current provisions and the content of the explanatory memorandum are not in the public interest and should be amended to properly reflect the charitable status of self-help consumer organisations of people with disabilities.

Yours sincerely

Maryanne Diamond
Executive Officer