

12 September 2003

Consultation on the Definition of a Charity  
The Board of Taxation  
C/- The Treasury  
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Attn: The Board

**Term of Reference:** Flexibility to ensure the definition can adapt to the changing needs of society

**Core Definition:** 4(1)(f)

Local Council offers a range of services and support for local Charitable entities including

- Volunteer management
- Financial support
- Executive support and advice
- Use of premises

City of Salisbury actively supports a number of entities, both incorporated and not (Associations Incorporations Act 1985), whose dominant purpose would be deemed as charitable in the provision of services. The support occurs in a number of ways:

- Secondment of staff in an ex-officio capacity
- Executive support, including business and financial planning
- Minor budget allocation
- Promotion
- Access to Council facilities

This support is currently offered to entities, which have and have not entered into formal partnership agreements with City of Salisbury. Each entity has a dominant purpose, which aligns with the strategic plans and directions. For example; Neighbourhood Houses, Information Technology networking groups, Community Gardens.

As detailed in the Exposure Draft Charities Bill 2003 ('The Bill') Explanatory Material 1.20 these connections could exclude a number of entities from receiving charitable status.

The Volunteer Protection Act 2001 (SA), now underpinned by the Advancing Communities Together (ACT) document, which is a signed agreement between the South Australian Government and the volunteer sector means that partnerships and working relationships between Local Governments and community groups are becoming more prevalent requiring additional support and resources to meet their ACT obligations.

The ACT outlines responsibilities of both the state government and the volunteer sector in regards to the effective management and protection of volunteers. Whilst only signed on 19 May 2003 Local Governments are already resourcing and supporting many charitable entities to fulfil the obligations of ACT.

The availability of adequate insurance coverage for community service organisations is limited, with only 3 insurance companies providing suitable policies, albeit expensive and therefore unsustainable. The lack of competition between providers and the increase in litigation and world trends means that insurance premiums are increasing dramatically. One entity within City of Salisbury had a 300% increase in premiums during 2003. This increase in premiums will continue to force many entities to cease operation. To overcome the issue of insurance, many entities with a dominant purpose which aligns with Council objectives are auspiced and supported by Council.

Under The Bill, as drafted, the changes in management structures of community groups could be deemed ineligible for charitable status.

The Charities Bill 2003, is inflexible to accommodate such changes in the sector, often arising from compliance to changes in, and the introduction of State and Federal Parliamentary Acts.

**Term of Reference:** Workability

The Bill, as proposed potentially creates a conflict of interest for the Australian Tax Office. Recognition of an entities charitable status has numerous tax benefits for said entity. An independent regulatory body is required for transparency of process.

No reference to Deductible Gift Recipients (DGR) is made in The Bill. Although some entities, which are not eligible for Charity status, are registered as DGR, all recognised charities should automatically become DGR.

The linking of DGR to an entities charity status would reduce the administrative work of both the Federal Government and the individual entities, and thus increase the workability of The Bill.

**Recommendations**

1. The Core definition 4(1)(f) needs to define government body in reference to relevant Acts  
E.g. Committees of Council under the Local Government Act 1999 (SA), Division 2 – Committees, Sections 41(1), 41(2)(d) and 41(7), to clearly preclude entities which enjoy a working relationship with Government bodies.
2. Strengthen the relationship between status of DGR and Charitable entities in as much as all Charities automatically receive DGR status.

Yours sincerely



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