



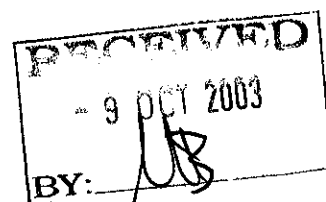
P233

WESTERN AUSTRALIAN
LOCAL GOVERNMENT ASSOCIATION

6 October 2003

Our Ref: LAN024/RB:CB Consultation

Consultation on the Definition of a Charity
The Board of Taxation
C/- the Treasury
Langton Crescent
PARKES ACT 2600



Attention: Ms Schwager

Dear Madam

CONSULTATION ON THE DEFINITION OF A CHARITY

Thank you for providing the Association with an opportunity to provide comment on the exposure draft of the *Charities Bill 2003* defining a charity for the purposes of all Commonwealth legislation. You may be aware that the Association was quite avid in providing a response to the Federal Inquiry into the Definition of Charities and Related Organisations early in 2001.

The WA Local Government Association is the peak representative body for Local Government in Western Australia and following responses received from member Councils we provide you with the following comments on the exposure draft of the *Charities Bill 2003*. The Association would also like to express its support for those submissions received from Local Governments in Western Australia.

In WA, Local Governments are regulated under the *Local Government Act 1995*. Section 6.26 of the Act stipulates that all land within a district is rateable land, except in certain circumstances, including:

- (2) (d) *land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood;*
 - (e) *land used exclusively by a religious body as a school for the religious instruction of children;*
 - (g) *land used exclusively for charitable purposes;*
- (6) *Land does not cease to be used exclusively for a purpose mentioned in subsection (2) merely because it is used occasionally for another purpose which is of a charitable, benevolent, religious or public nature.*

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The Voice of Local Government



Under Section 6.26(2)(g) of the *Local Government Act 1995*, a clear definition of 'charitable' has not been given nor does it provide any certainty or consistency for Councils when granting rate exemptions. The ensuing confusion from such a reference to 'charitable' results in greater financial expenditure in seeking legal interpretations on whether those organisations claiming rate exemptions have legitimate grounds for being considered 'charitable'. This often results in the Council bearing both the legal cost involved as well as ultimately bearing the financial burden for lost rate revenue if the organisation is granted charitable status.

Whilst Local Government generally applauds the Government's attempt to clearly define those organisations which would qualify as being for 'charitable purpose', there are a number of concerns that we would like to bring to your attention.

It is our belief that the proposed definitional framework within the *Charities Bill 2003* would certainly broaden the definition of a charity, particularly given that reference to Charitable Purposes includes "any other purpose that is beneficial to the community". It is our view that this will constitute a 'catch-all' phrase that is neither clear nor limiting in its application. From a Local Government perspective such a broad definitional framework may have the effect of placing an increased rating burden upon other community sectors, potentially, to those sectors that can ill-afford any extra burdens.

Like a number of charitable organisations in our society, Local Government is also expected to take on additional responsibilities from both a Federal and State Government level with less and less funding to carry out those extra responsibilities. Given this situation, the greater number of organisations in the community that are recognised as charitable for tax purposes, the greater the burden for Local Governments in their ability to raise rate revenue to provide a quality service in the community.

Notwithstanding the altruistic nature of charitable organisations and the value they bring to our communities, Local Governments should not be placed in a disadvantaged position for carrying out their normal operation due to a limited rate capacity. Whilst I realise that it is not within the scope of this consultation to investigate ways of subsidising Councils for their loss of rate revenue, Local Governments would however, be forced to seek compensation from other levels of Government.

The matter of rate exemptions for charitable purposes has been raised with the Association on a number of occasions. By way of illustrating how this matter impacts on Local Government it has been necessary to raise the matter at the national level through the Australian Local Government Association. At the National General Assembly of Local Governments in 2002 it was resolved that:

ALGA pursue with the Federal Government an increase to the Financial Assistance Grants pool to take into account the increasing impact of charitable purpose rate exemptions on Local Governments revenue raising capacity.

The necessity of charitable organisations in our communities is fully acknowledged and supported by Local Government. However, the financial loss to Councils due to the diverse nature of organisations seeking charitable status impacts on the whole of the community as it forces Councils to seek other sources for raising revenue. It is crucial that Local Government has a clear definition in which to determine charitable status to ensure that they are able to carry out their operations efficiently and effectively, but not to the detriment of other sectors within the community.


It was envisaged that the *Charities Bill 2003* would assist in defining the words 'charitable purpose' under the *Local Government Act 1995*, however it appears, from my reading of the provisions of the Bill, that rather than giving greater clarity it has in fact broadened the focus to such an extent that should this



Bill be passed into legislation, we would be required to prepare guidelines as to what constitutes the References to Charitable Purposes (Part 3, 10(1)(2)).

Thank you once again for allowing us the opportunity to comment on this Inquiry and if you have any queries or require any further information please do not hesitate to contact the Association's Policy Officer, Carolyn Betts on (08) 9213 2044 at your convenience.

Yours sincerely


Wayne Scheggia
A/Chief Executive Officer