



**nsw Federation of
Housing Associations inc**

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Manager
Philanthropy and Exemptions Unit
Indirect, Philanthropy and Resource Tax Division
The Treasury
Langton Crescent
Parkes ACT 2600

BY EMAIL: charities@treasury.gov.au

Dear Sir/Madam –

Re: Statutory Definition of Charity

Thank you for the opportunity to comment on the *Charities Bill 2013 Exposure Draft* (“the Bill”). The NSW Federation of Housing Associations (the Federation) has made submissions on a number of related taxation policy issues, including the previous Treasury consultation paper on the statutory definition of charity in 2011, and the taxation of unrelated business activities raised in the 2011-12 Federal Budget. In addition, the Federation made a submission to the Henry review of the taxation system. These submissions are available at www.communityhousing.org.au/resourcebank/. In this submission, the Federation confines its comments to the two most vital aspects of the Bill: the articulation of the provision of safe, affordable and appropriate housing as a head of charity; and the inclusion of all aspects of community housing provision within the charitable definition.

About community housing

The Federation is the industry peak body for community housing providers in NSW. Community housing providers are not for profit, charitable organisations whose principal business is the management and development of long term rental housing for low and moderate income households. This is reflected in the primary purpose of community housing providers, which is usually expressed in terms of the relief of poverty by providing housing and related services to relieve housing stress.

The Federation’s core members –community housing providers – manage over 29,000 tenancies, which constitute the vast majority of community housing in NSW. With the ongoing transfer of properties from the public sector to community housing, and the related increase in leveraging activity, the industry is growing rapidly. All housing associations are registered charities with Public Benevolent Institution (PBI) status, and are regulated by the NSW Registrar of Community Housing.

In order to offer subsidised rents to low and moderate income households, community housing receives funding and other support from all three levels of Government. This may include grant funding, concessions on taxes and levies, eligibility of tenants for rent assistance, and other forms of subsidy.

Housing as a head of charity

The Federation strongly supports the proposition that provision of safe, affordable and appropriate housing must be included in Section 11 of the Bill as a specific head of charity. It is widely accepted that access to housing is a necessary precondition for participation in society. Access to housing is not only an important public policy objective, it is also widely recognised as a human right in numerous documents, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights.

The articulation of the provision of safe, affordable and appropriate housing as a head of charity would align the Bill to this public policy and human rights objective. Further, it would facilitate the role of community housing providers, as charitable providers of housing, to make an even greater contribution to society.

If housing is not to be included in Section 11 of the Bill as a specific head of charity, the Federation supports the proposition that housing must be included in the Bill as a charitable purpose as a subcategory of “advancing social or public welfare”.

All aspects of the provision of community housing are charitable

The core business of community housing providers is the management and development of long term rental housing for low and moderate income households who are in housing stress. The Federation submits that all aspects of the provision of community housing need to be included within the definition of housing used in the Bill. Community housing providers do not operate separately from commercial housing markets, but intervene in those markets in order to undertake their charitable activities. They operate where private developers and investors are unable or unwilling to deliver housing affordability. Further, community housing providers manage and develop housing for low and moderate income households facing disadvantage in relation to access to housing. For example:

- The main income source for community housing providers is tenant rent, rather than Government grants.
- Community housing providers aim to increase the supply of housing provided at sub-market prices by leveraging their assets and income streams to develop or purchase properties.
- Community housing providers may also sell part of a development project to the private market, where necessary for the viability of the project.
- Community housing providers undertake fee-for-service work on behalf of other organisations, which may be used to cross-subsidise other activities.
- Community housing providers also enter into partnerships with other organisations – including private, for-profit entities – in order to expand and develop their services.
- The regulation of the industry requires providers to maintain a suitable level of surplus for risk management and planned maintenance purposes, and to undertake an appropriate level of

leveraging to increase supply: importantly, the use of surpluses is always to enhance the provision of affordable housing, consistent with providers' charitable purpose.

The definition of housing in the Bill refers to the provision of housing for "people with special needs or who are otherwise in a special disadvantage in terms of their access to housing". In addition to introducing a new variety of confusion, through the use of the undefined term "special disadvantage", the Bill unnecessarily limits the conditions under which the provision of housing would be considered charitable. The Federation submits that it is necessary to consider all aspects of the provision of community housing as charitable activities, as they directly contribute to the ongoing capacity of community housing providers to deliver safe, affordable and appropriate housing to people on low and moderate incomes in housing need. To this end, the Federation supports the definition of housing used by the Charities Definition Inquiry Committee, which refers to the provision of housing for "people with special needs or who are otherwise disadvantaged in terms of their access to housing".

If you have any inquiries in relation to these comments, please do not hesitate to contact me.

Yours sincerely –

Lucy Burgmann

Dr Lucy Burgmann
Chief Executive Officer
NSW Federation of Housing Associations