

1. Name and contact details:

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2. The dominant purpose:

The YWCA of Sydney's Memorandum of Association states our purpose's as including: "To provide programs and services which help to alleviate disadvantage, poverty, distress and suffering in the community" and "Providing opportunities for women to develop to their full potential..." Clearly, our dominant purposes are both charitable and for the public benefit.

We suggest that in determining the dominant purpose or purposes of a charitable entity, consideration needs to be given to both the entities constituent documents and its activities.

In addition, our Memorandum of Association states that during operation or upon winding up or dissolution, property shall not be paid or distributed to the members of the association, this is in accordance with the proposed definition of a "not-for-profit entity" and supported by The YWCA of Sydney.

3. Principle reasons for making a submission on the workability of the definition of a charity proposed in the draft legislation (the Charities Bill 2003) and explanatory Material.

The YWCA of Sydney supports the introduction of a legislative framework for the definition of a Charity. We recognise that such changes have the capacity to impact on the viability and sustainability of the charitable sector. Our submission, therefore seeks to clarify the Bill to ensure its workability and relevance in both current and future environments with specific reference to the following comments:

- a) To ensure that the proposed codified definition of a charity enables and encourages such entities to undertake commercial activities that create independent revenue sources which further and/or aid the entities dominant purposes. Such commercial activity acts to reduce undue reliance on government resources and strengthens the sectors skill base and partnership opportunities.

We recommend clarification of example 1.1 of the exposure drafts explanatory material, which implies a quantifiable level of commercial activity, be clarified to reduce the possibility of misinterpretation.

- b) To ensure that the Charities Bill 2003 does not adversely effect the tax concessions of charitable entities who hold Charitable and Public Benevolent Institution (PBI) status. It is these concessions that enable charitable entities, such as The YWCA of Sydney to remain viable and conduct our charitable purposes without undue reliance on government resources.
- c) To ensure that the proposed codified definition of a charity maintains the provision of flexibility to ensure the definition can adapt to the changing needs of society as well as changing economic and governance circumstances in which charitable institutions operate. As public funding recipients and service providers, many charities conduct activities that were historically or socially considered to be functions of government, to avoid misinterpretation or confusion, we recommend that the definition of a “government body” be clarified in relation to such functions.
- d) To submit that advocacy work for individual or systemic change undertaken by charitable entities be positively considered as a fundamental and valid activity in fulfilling our charitable purpose and should not to be considered as a disqualifying purpose. We consider that our advocacy role is an essential element in informing public policy and law and that it legitimately engages otherwise disenfranchised voices, civil society and expert opinion.
- e) To ensure that changes to the public benefit test remain responsive to current and future trends and best practice standards, and that preventative and innovative approaches to emergent social needs be recognised as valid in relation to the fulfilment of charitable purposes.
- f) To seek clarification on the term ‘relationship’ with respect to the public benefit test where there is a relationship between the donor and the beneficiaries.
- g) To submit that consideration be given for the codification of the definition of Public Benevolent Institution as well as Charity in order to achieve legal clarity and reduce uncertainty.

4. Current endorsement with the Australian Taxation Office (ATO) as an Income Tax Exempt Charity (ITEC).

The YWCA of Sydney is currently endorsed with the ATO as an ITEC. We strongly submit to the Board that the maintenance of such status, and the resultant tax concessions is a key factor in our ability carry out our dominant purpose which is to alleviate disadvantage, poverty, distress and suffering in the community and build social capital.

Concessions such as ITEC and Gift Tax Deductibility enable us to achieve these outcomes without undue reliance on other sources of funding such as government resources.

5. Impact of the Charities Bill 2003 on our administrative burden. What, if any additional compliance costs do you anticipate?

The Charities Bill 2003 and explanatory materials make no reference to methodology or costs of administration or compliance, particularly in relation to both State and National tax concession endorsement and possible duplication in administrative processes. We feel this requires further clarification. We would support a centralised endorsement process in relation to charitable status and the ensuing tax status of entities to reduce the likelihood of additional administrative burdens or compliance costs associated with the implementation of the Charities Bill 2003.

6. Does the Charities Bill 2003 provide the flexibility to ensure the definition can adapt to the changing needs of society?

While the majority of the charitable work undertaken by The YWCA of Sydney meets the requirements of the “advancement of health, education, social and community welfare, culture and the environment”, we support the inclusion of “other purposes beneficial to the community”. This inclusion provides the flexibility of definition required by charitable institutions to adapt and continue to meet the changing needs of communities into the future and recognises the importance of our continuing work in the areas of Reconciliation, cultural tolerance and human rights. However, we submit that the definition of a charitable purpose ought to include specific reference to the advancement of women and an equitable and just civil society. Further, we submit that the “advancement of social and community welfare” should include reference to the provision of crisis and emergency accommodation.

7. If the public benefit test required the dominant purpose of the charitable entity to be altruistic, would this affect The YWCA of Sydney? Is so, how?

Such a public benefit test, applied to the dominant purposes of The YWCA of Sydney, would not have a negative impact as our dominant purposes are altruistic, according to the definition recommended by the ‘Report of the Inquiry into the definition of Charities and Related Organisations’ which states that altruism is ‘A voluntarily assumed obligation towards the wellbeing of others or the community generally’.

While we support this area of the legislative framework, we recommend that the Bill recognise that charities may have more than one dominant purpose. Further, we would seek clarification of 1.39 of the explanatory material, which is ambiguous in respect of the nature of the relationships between donors and beneficiaries.