



**nsw Federation of  
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NFP Sector Tax Concession Working Group Secretariat  
The Treasury  
Langton Crescent  
Parkes ACT 2600

BY EMAIL: [nfpreform@treasury.gov.au](mailto:nfpreform@treasury.gov.au)

Dear Sir/Madam –

**Re: Fairer, simpler and more effective tax concessions for the not-for-profit sector**

Thank you for the opportunity to comment on the discussion paper “Fairer, simpler and more effective tax concessions for the not-for-profit sector”. The NSW Federation of Housing Associations (the Federation) has recently made submissions on a number of taxation policy issues, including the proposed statutory definition of “charity” and the potential taxation of “unrelated business” 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/](http://www.communityhousing.org.au/resourcebank/). The Federation and the community housing industry continue to await resolution of these crucial issues, which are not within the scope of the present discussion paper. In this submission, the Federation confines its comments to the most directly relevant aspects of the discussion paper.

*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 to 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 – commonly known as housing associations – 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 to 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.

### *The community housing business*

While community housing is undertaken by not for profit, charitable organisations, and is supported by Government subsidies, it is predominantly a commercial activity:

- 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; this activity is undertaken in accordance with commercial disciplines.
- Community housing providers may also sell part of a development project to the private market, where necessary for the viability of the project; again, this activity is undertaken in accordance with commercial disciplines.
- 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 to undertake an appropriate level of leveraging to increase supply.

It is this commerciality which separates community housing from many other not for profit industries: rather than operating separately from the private market, community housing providers actively engage with the private market. They operate where private developers and investors are unable or unwilling to deliver housing affordability. Engagement with the private market is not incidental to their business, it is an inherent feature of their business.

Community housing providers rely on the full suite of Government subsidies – including taxation concessions – in order to engage effectively with the market in this way. In this light, the proposition that tax concessions “may affect competitive neutrality” (page 10 of the discussion paper) reflects a misunderstanding of the community housing industry. Community housing providers may “compete” against for profit organisations, but their charitable purpose means that they cannot mirror the behaviour of these organisations by targeting higher income households in order to achieve profitability. The taxation concessions deployed by community housing providers have the effect of levelling the playing field, rather than conferring an unfair advantage.

### *Public policy support for community housing*

There is a critical shortage of rental housing in Australia that is affordable and available to low to moderate income households. This housing affordability crisis gives rise to social exclusion and disadvantage, as the availability of affordable housing is essential for health, security and social and economic participation. The growth of the community housing industry, whose purpose is to meet the needs of such households, is central to the public policy response to this problem. Through the National Affordable Housing Agreement, Commonwealth and State Governments have responded with a major policy shift towards supporting the not for profit industry to take a primary role in the

development and management of low cost housing. The Commonwealth Government also supports this policy through continuing to make Commonwealth Rent Assistance available to community housing tenants. In addition, the Commonwealth Government has implemented new measures such as the social housing component of the Nation Building Economic Stimulus Plan and the National Rental Affordability Scheme (NRAS), which have increased the number of properties managed by the industry.

This constitutes, in effect, an industry development policy, jointly supported by Commonwealth and State Governments, as a key element of the response to the housing affordability crisis. In this context, it would be counterproductive for the ATO to revise taxation concessions in any manner which hindered community housing providers from continuing to grow and develop their business.

*Specific comments on the discussion paper*

In relation to the issues raised in Chapters 1 and 2, the Federation notes that community housing providers rely on income tax exemptions as part of fulfilling their purpose of relieving poverty through relieving housing stress, as discussed above. Community housing providers with PBI status are eligible for deductible gift recipient (DGR) status, which allows them to encourage giving in their communities. This may further offset the cost of providing housing to low to moderate income households.

In relation to the issues raised in Chapter 3, the Federation emphasises community housing providers' reliance on fringe benefit tax (FBT) concessions in order to attract and retain the required workforce. As noted above, community housing is inherently a commercial activity; accordingly, providers require the same skills and expertise on staff as for profit property developers and housing managers. Community housing providers cannot increase their income by targeting higher income households, therefore FBT concessions are crucial to offering staff appropriate after tax income. This is becoming an even more critical issue: the rapid growth of the industry creates demand not just for additional staff, but also for new positions such as middle managers, chief financial officers, project managers, and a range of specialist roles. Some of these positions will be sourced from the commercial sector, such as the real estate and property development industries, others will be sourced from the public housing sector: all of these sectors typically have higher wages than the community sector. Far from delivering an unfair advantage, the availability of FBT concessions helps ensure that community housing providers compete on a level playing field with for profit organisations.

Finally, in relation to the issues raised in Chapter 4, the Federation draws the Working Group's attention to the value represented by GST concessions. By providing housing at less than 75 percent of market price, community housing providers receive GST exemptions for inputs to that supply. This assists the industry by reducing the cost of procuring new properties and maintaining its existing assets. In higher costs areas, where the need for affordable housing is greatest, such concessions may be the determining factor for the viability of development projects.

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

Yours sincerely –

*Lucy Burgmann*

Dr Lucy Burgmann  
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NSW Federation of Housing Associations