

3 May 2013

Manager  
Philanthropy and Exemptions Unit  
Indirect Philanthropy and Resource Tax Division  
The Treasury  
Langton Crescent  
**PARKES ACT 2600**

Email – [charities@treasury.gov.au](mailto:charities@treasury.gov.au)

Dear Manager,

**Exposure Draft – Charities Bill 2013**

Australian Red Cross Society ("Red Cross") welcomes the opportunity to make a submission in respect of the Exposure Draft *Charities Bill 2013*.

Red Cross notes that Treasury has said that the views of the 2011 submissions have been incorporated in the draft law and that it will not be necessary to submit previous submissions.

Red Cross therefore wishes to make a limited submission in respect of the definition of charitable purpose, particularly the provisions of cl 13 (2) of the Exposure Draft, in relation to the meaning of the 'purpose of advancing social or public welfare'.

***Purpose of advancing social or public welfare***

Red Cross very much welcomes the clarification and improvement of the former law, which is apparent from the detailed consideration which is given to the meaning of the 'purpose of

advancing social or public welfare' in cl 13 (2) of the Exposure Draft, and the draft Explanatory Memorandum generally and in particular in cl 1.89 to 1.94.

Red Cross acknowledges that the concept in the *Charities Bill* of the 'purpose of advancing social or public welfare' is a broad concept, with a number of types identified in cl 11 of the Bill. Moreover, the examples in cl 13 are set out on the basis that they do not limit what constitutes the purpose of advancing social or public welfare. This approach, which enables changing circumstances to be accommodated, is welcome.

However, in some respects, Red Cross submits that it would be helpful to either amend the draft Bill or add to the material in the Explanatory Memorandum to provide a practical degree of flexibility in the application of these concepts in the future.

The practical need for flexibility arises particularly in the context of the work associated with relief of disasters, given the many and varied ways in which both individuals and communities may suffer distress and be severely adversely affected by sudden catastrophes such as bushfires, cyclones, floods and other natural disasters.

Provision of some more information – particularly in the Explanatory Memorandum – would assist in reducing uncertainty and help guide decision makers to make the legislation work effectively.

### **Draft Bill, Cl 13 (2)**

Cl 13 (2) speaks of "assisting the rebuilding, repairing or securing of assets", in the circumstances set out there.

#### *The scope of 'rebuilding assets'*

Red Cross submits that it would be helpful to clarify, either in that section itself, or in the Explanatory Memorandum, that the rebuilding could be on another site if (for example) the

former site is inappropriate for a variety of reasons for rebuilding the same facility as was formerly there (for example, potential fire risk may dictate that the facility be built in a different location).

*Rebuilding the social fabric of communities*

The Bill and the Explanatory Memorandum expressly and correctly recognise the need to rebuild the physical assets of a community after a disaster. Red Cross suggests that the Bill - or at least the Explanatory Memorandum - could note that the recovery of a community after a disaster also involves rebuilding the social fabric of the community and that this may involve a diverse range of activities which assist in re-establishing community cohesion.

Some commentary on this point in the Explanatory Memorandum would assist.

*Making provision for the variety of 'community assets'*

It would also be useful to clarify that the "assets" which are referred to here (being the community assets) include community assets of a variety of kinds and to which a contribution has been made by the community in a variety of ways.

For example, they may include assets which are built on land owned by a community organisation and used for its purposes. Red Cross suggests that it should also encompass assets which may be located on local government land but which have been established or supported by the community broadly e.g. by contributions made in kind or in money by local community organisations to add to the facilities which form part of the asset.

This clarification perhaps could be provided through the Explanatory Memorandum, if not in the Bill itself.

**Draft Explanatory Memorandum, cl 1.93**

In respect of the specific aspect of this concept which includes “the relief of distress caused by natural disasters and sudden catastrophes”, the inclusive examples given in cl 1.93 of the draft Explanatory Memorandum are most helpful.

However, in the submission of Red Cross it would be useful to provide some further elucidation of the meaning of the purpose in the context of disaster relief, in view of the experience of Red Cross as set out in its submission dated 20 December 2011.

*The time period over which relief may be provided*

There is no reference in the Bill or the draft Explanatory Memorandum to the immediacy of the distress which calls for relief.

Red Cross suggests that, to help reduce the potential for a narrow application of these concepts in the future, it would be useful to confirm that the relief of distress may occur over a substantial period, where the loss of lives, homes and the like creates a need for relief over a longer period. This can arise in a number of ways – such as in the provision of interim housing support or in other ways such a psychological support or, in the case particularly of children, continuing distress and loss caused by the loss of parents or other family members who perished in the disaster.

*Relief may take the form of new or different community facilities*

It is well recognised that rebuilding a community after a disaster takes time and may be assisted in a range of ways. This may include new facilities – in bush areas for example the provision of walking trails, memorials and the like.

Some commentary on this point in the Explanatory Memorandum would assist.



Red Cross would be happy to discuss any aspect of this submission.

Yours sincerely,

A handwritten signature in black ink that reads 'Bruce Moore' in a cursive script.

**BRUCE MOORE**  
**General Counsel**

