



GOLD COAST
HOSPITAL FOUNDATION

"Resourcing better health care for the community"

Gary Baildon AM., KSJ, D Univ
Chairman

Naomi Dwyer
Company Secretary

Mark Hindle
Chief Executive Officer

Response to the Federal Government's
Consultation Paper, A Definition of Charity

Submission Cover Sheet

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7 December 2011.

Manager
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The Treasury
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Email: nfpreform@treasury.gov.au

Dear Sir

Response to Consultation Paper, a Definition of Charity

Gold Coast Hospital Foundation is most grateful of the opportunity to respond to the consultation paper, A Definition of Charity.

Gold Coast Hospital Foundation is a not for profit community based organisation incorporated pursuant to an Act of Parliament proclaimed by the Minister for Health in 1994. Structured as a volunteer Board, each Member is appointed by the Queensland Governor in Council in conjunction with the Minister for Health. There is no corporation constitution as Gold Coast Hospital Foundation was created by a Ministerial Minute pursuant to the Hospital Foundations Act 1992.

The Foundation receives no government subsidy and was established to raise funds for health services and research for the Gold Coast Health Service District.

The Foundation was established as a Charitable Fund and is endorsed to access the following tax concessions;

- GST Concession effective from 1 July 2005
- Income Tax Exemption effective from 1 July 2000

The Foundation is endorsed as a Deductible Gift Recipient effective from 1 July 2000. It is covered by item 2 of the table in Section 30-15 of the Income Tax Assessment Act 1997.

Gold Coast Hospital Foundation operates according to the Hospitals Foundations Act 1982 and Regulations 2005; Financial Administration and Audit Act 1977 and Regulations 1995.

Gold Coast Hospital Foundation is administered by a voluntary Board of community members with a range of commercial, public sector, legal, accounting, philanthropic and health experience. The Board also comprises two employees of the Gold Coast Health Service District.

Gold Coast Hospital Foundation is supportive of a single, uniform definition of charity and charitable purpose for all uses and within governments at all levels. However, we are concerned at the inconsistencies that currently exist between States and Territories and the confusion that causes within our constituencies and in particular our donors. We serve the Gold Coast Health Service District which has influences in both South East Queensland and Northern New South Wales.

While we are in concert with the overall thrust of the discussion paper we believe there are ramifications for the Foundations covered by the HFA 1982 and the issues of dominant purpose and whether or not they are government bodies. We believe there should be a common understanding of the definition that will ensure there is a simple system that benefits all and has no unintended consequences for the broader charitable sector.

To that end Gold Coast Hospital Foundation will comment upon only one question.

1. Are there any issues with amending the 2003 definition to replace the "dominant purpose" requirement with the requirement that a charity has an exclusively charitable purpose?"

It is our view that Hospital Foundations should be given special consideration and not be regarded as government bodies.

While we are cognisant that Queensland Health Finance has looked at this issue mainly in regard to any implications for hospitals' endorsement as charities, in general Queensland's hospital foundations would appear to meet the core definition of charity as outlined in the consultation paper i.e.

- a. Not-for-profit
- b. Dominant charitable purpose – advancement of health
- c. For the benefit of the general community (support of public health care)
- d. All activities undertaken are in aid of its charitable purpose

Currently our Foundation appears to be classified as a "government body" under the Charities Bill 2003, which defines this as "a body controlled by... a State". This would then appear to exclude us from the definition of charities.

We are aware the Board of Taxation has recommended that Bill be amended to define what "controlled by government" means. Their paper asks if the definition should be replaced or amended to take into account the definition of government entity as defined in A New Tax System (Australian Business Number) Act 1999, as below:

- government entity means:
 - (a) a Department of State of the Commonwealth; or
 - (b) a Department of the Parliament established under the Parliamentary Service Act 1999; or

(c) an Executive Agency, or Statutory Agency, within the meaning of the Public Service Act 1999; or
(d) a Department of State of a State or Territory; or
(e) an organisation that:
 (i) is not an entity; and
 (ii) is either established by the Commonwealth, a State or a Territory (whether under a law or not) to carry on an *enterprise or established for a public purpose by an *Australian law; and
 (iii) can be separately identified by reference to the nature of the activities carried on through the organisation or the location of the organisation;
whether or not the organisation is part of a Department or branch described in paragraph (a), (b), (c) or (d) or of another organisation of the kind described in this paragraph.

- A New Tax System (Goods and Services Tax) Act 1999 defines entity as:


184-1 Entities

- (1) Entity means any of the following:
- (a) an individual;
 - (b) a body corporate;
 - (c) a corporation sole;
 - (d) a body politic;
 - (e) a *partnership;
 - (f) any other unincorporated association or body of persons;
 - (g) a trust;
- (h) a *superannuation fund.

It would seem that foundations under the HFA 1982 would appear to be defined as entities for the purposes of GST and ABN but it is not clear if they would be considered government entities under a revised definition in the Charities Bill. The proposed work to amend the Hospital Foundations Act 1982 will also have regard to these matters.

It is the view of Gold Coast Hospital Foundation that Hospital Foundations should be given special consideration and not be regarded as government bodies and we meet the core definition of charity as outlined in the consultation paper

Yours faithfully



Mark Hindle
Chief Executive Officer
Gold Coast Hospital Foundation