

From: G. Mullane
Sent: Tuesday, 6 December 2011 2:40 PM
To: NFP Reform Consultation
Subject: TRIM: Definition of Charity - submission

I am writing this submission on behalf of Tinonee Gardens Multicultural Village of Tinonee Street, Waratah NSW 2298 ("Tinonee"). Tinonee is a registered charity in NSW and has exemptions from income tax, GST, FBT etc and gift deductible status for income tax purposes.

Tinonee is a partnership of the Ethnic Communities Council of Newcastle and the Hunter Region INC ("ECC") and Hunter Housing INC.

Both bodies are incorporated Associations and not for profit entities.

In 1990 both bodies combined to establish Tinonee, a residential facility for aged persons. ECC was concerned to provide particularly for persons of diverse cultural and linguistic backgrounds and Hunter Housing was concerned to provide particularly for persons who are financially disadvantaged. Tinonee now has about 180 residents, of whom about 40% are financially disadvantaged and about 30% do not come from an English speaking culture.

In the discussion at para 45 and 118 to 123 of the Consultation Paper there is mention of excluding partnerships from the definition of a charity. Tinonee is a partnership of 2 corporations (Incorporated Associations). We suggest that the definition not exclude a partnership of 2 corporations. If one corporation can be a charity, it seems logical that a partnership of 2 corporations, where the partnership is properly documented, should not be excluded.

The Tinonee Deed of Management does not constitute a trust. For various reasons we are in the process of changing that so that the partners hold the assets in trust for our charitable purposes, provision of accommodation and other services for aged or disabled persons. We would also be concerned that any definition of a charity not exclude the situation where 2 corporations are the trustees.

We have already been seriously prejudiced by a similar provision in the Aged Care Act 1997. Whereas Tinonee was accepted as a partnership/provider for purposes of approval of hostel places under the previous aged care legislation, the 1997 Act introduced a requirement that a provider be "a corporation" and this has been interpreted by the Department as not including a partnership of 2 corporations. The Act provides that existing providers can apply for and be allocated additional places of a type they have previously been granted, so Tinonee has been able to apply for and obtain approval for additional hostel places. But the partnership cannot be granted approval as a provider of other services such as nursing home or home care. Its application for such an approval was rejected on that basis.

Yours faithfully

Graham Mullane