

SUBMISSION BY THE NSW COUNCIL OF CHURCHES
TO THE CONSULTATION ON THE DEFINITION
OF CHARITY

1. The NSW Council of Churches (hereinafter called “the Council”) congratulates the Government on its intention to codify the law relating to the definition of charity and to expand the entities which may be included in that definition.
2. The Council understands and appreciates the concern of the Government to maintain the independence of charities from Government and the political process as far as possible, and notes that the Government has sought to achieve this aim by including as “disqualifying purposes” the matters set out in section 8 (2), (a), (b), and (c) of the Draft Bill.
3. However, the Council believes that the Government’s concern as set out in paragraph 2 above fails to understand that, to serve the public benefit, it may be necessary for charities to engage in political processes, and the Council is concerned that the inclusion of section 8 (2) in the Draft Bill will place charities at a decided disadvantage in pursuing their altruistic objectives.
4. We do not believe that the Government intends to place charities at such a disadvantage having regard to the terms of paragraph 1.54 of the Explanatory Material which accompanies the Draft Bill. That paragraph states as follows:-

“Ordinarily, representing to Government, from time to time, the interests of those the entity seeks to benefit would be seen as incidental and in aid of the dominant purpose of the charity.”

No provision to this effect has been inserted in the Draft Bill. The Council believes that such a provision should be inserted in the Draft Bill.

5. The Council submits that a new sub-section (3) should be inserted in section 8 of the Draft Bill after subsection (2) to the following effect:

“ Notwithstanding the provisions of subsection(2), representations to Government by an entity, from time to time, concerning the interests of those the entity seeks to benefit, shall be deemed to be, and are hereby, deemed to be, incidental to and in aid of the dominant purpose of that entity.”