

NSW MINERALS COUNCIL

FEDERAL GOVERNMENT DISCUSSION PAPER:
TAX DEDUCTIBLE GIFT RECIPIENT REFORM
OPPORTUNITIES



Introduction

The NSW Mining Industry

The NSW Minerals Council is the peak body representing the State's \$21 billion mining industry.

NSWMC provides a single, united voice on behalf of our 100 member companies: 40 full members (producers and explorers), 25 associate members (junior explorers) and 35 associate members (service providers). We work closely with government, industry groups, stakeholders and the community to foster a dynamic, efficient and sustainable minerals industry in NSW.

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Executive Summary

The NSW Minerals Council welcomes the Federal Treasury's Discussion Paper on potential reforms to the operation of the Deductible Gift Recipient (DGR) system, to ensure the integrity of this mechanism to encourage philanthropy through organisations with a mission to deliver genuine on-ground benefits to local communities. NSW Minerals Council supports one of the key remits of the discussion paper to ensure that tax deductible donations are used for the purpose intended and expected by the community by environmental charities listed on the Australian Charities Register.

While there are a number of activist groups that operate in NSW, it is the activities of two key organisations, currently receiving Deductible Gift Recipient status – Lock the Gate Alliance (Lock the Gate) and Greenpeace – that forms the focus of the NSW Minerals Council submission. The activities and purpose of these two groups fails to satisfy a key area of regard for the discussion paper, namely that activities undertaken by organisations receiving DGR status currently listed on the Register comply with State and Federal laws and the extent to which these activities involve on-ground environmental works.

The activities of these groups also fall outside the rules of the Government's own governance standards for not-for-profit organisations highlighted in the Discussion Paper.

Point 7 of the Discussion Paper states:

"To be eligible to be registered as a charity with the ACNC, the organisation must also:

- *not have a 'disqualifying purpose' (which means the purpose of engaging in or promoting activities that are unlawful...)"*

According to the Australian Charities and Not-for-profits Commission (ACNC), any illegal activity will result in the group losing its registered charity and DGR status:

The standard requires charities to not act in a way that, under Commonwealth, state or territory law, could be dealt with as:

- *a breach of law that has a civil (not criminal) penalty of 60 penalty units (currently \$10,800) or more.¹*

Further, the primary activities of these organisation do not satisfy *Income Tax Assessment Act 1997*, Subdivision 30-E which states that for an environmental organisation to receive Deductible Gift Recipient status:

Its principal purpose must be protecting the environment

(1) Its principal purpose must be:

(a) the protection and enhancement of the natural environment or of a significant aspect of the natural environment; or

(b) the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.

¹ http://www.acnc.gov.au/ACNC/Manage/Governance/GovStds_3/ACNC/Edu/GovStandard_3.aspx

For the purposes of eligibility for Deductible Gift Recipient status, Lock the Gate and Greenpeace are not environmental organisations but rather professional activist groups whose objective is to disrupt and hamper the resources sector in NSW.

The activities of these groups include:

1. Unlawfully accessing private land;
2. Unlawfully interfering with private heavy transport and construction equipment, placing themselves and others in harms way;
3. Training and inciting members of the public to unlawfully access private land and interfere with heavy equipment.
4. Direct involvement in political activism.

In direct answer to questions proposed for discussion as part of the discussion paper, the NSW Minerals Council recommends the following:

The Deductible Gift Recipient status of these groups and groups like them should be rescinded, or regulations amended to make them ineligible for Deductible Gift Recipient status.

Further, the NSW Minerals Council submits that regular reviews should be undertaken by government regulators, namely The Australian Tax Office, to ensure that activities of the group do not include breaking civil laws.

NSW Minerals Council submits that legislative and administrative changes be pursued by the ATO to require that the value of each environmental DGR's annual expenditure on environmental remediation work be no less than 50 per cent of the organisation's annual expenditure from its public fund.

We also submit that the Federal Minister for Revenue and Financial Services should have the legislative power to immediately suspend or cancel the DGR status of any group found to have engaged in illegal activity.

Lock the Gate and Greenpeace's primary activities and purpose do not meet the requirement for DGR status

NSWMC position:

Both Lock the Gate and Greenpeace are dedicated activist groups engaged in the political process.

The documented activities of Lock the Gate and Greenpeace illustrate their primary purpose does not involve on-ground environmental works.

According to Lock the Gate's national website² they describe themselves as a 'grassroots' organisation made up of 40,000 supporters and 250 sub-organisations.

The website lists no on-ground actions to enhance or protect a specific area or any part of the natural environment.

Instead, Lock the Gate outlines that it achieves its central aims through '*organisation and campaigning against inappropriate mining*'.

² http://www.lockthegate.org.au/missions_principles_aims

Lock the Gate is essentially a co-ordinated political activist organisation, whose purpose is to disrupt and dismantle the resource sector in NSW.

Similarly, Greenpeace Australia Pacific website lists zero on-ground activities designed to enhance or improve local ecosystems.

Their website lists them as an '*independent campaigning organisation that uses non-violent direct action to expose global environmental problems and to force solutions...*'.

The website goes on to state that '*Greenpeace takes non-violent direct action at the point of an environmental crime to expose an environmental problem.*'

Greenpeace is also primarily a co-ordinated political activist organisation, whose purpose is to disrupt and dismantle the resource sector in NSW

Both these organisations currently enjoy DGR status.

Non-Violent Direct Action (NVDA)

The number one strategy used by Lock the Gate and Greenpeace is 'direct action'.

Aiden Ricketts, a self-described activist, academic and author of *The Activists Handbook* works closely with Lock the Gate. According to his website, in 2003 Ricketts established an accredited activism training course, which continues to be offered through Southern Cross University³. (See image A).



Image A - Aiden Ricketts, wearing a Lock the Gate t-shirt, in a video on activism from his website.

In *The Activists Handbook* Ricketts notarized the term 'direct action', defining it as follows:

"Nonviolent direct action, by which we usually mean blockades, sit-ins and various other forms of highly visible protest, is most effective when it is more than simply a temporary stunt, but an actual gritty action aimed to seriously stop or delay some destructive activity. It is also never a campaign strategy all on its own. But employed within the framework of a credible campaign in which it is

³ <http://aidanricketts.com/about/>

aligned with political, legal, economic, media and public awareness strategies it can become the power tool of social change."⁴

Ricketts pioneered the use of 'workshops' to train members of the public in direct action, which were also used as fundraising opportunities for both Greenpeace and Lock the Gate; for example Ricketts 2013 Non-violent Direct Action Workshop in Bentley NSW, charged attendees '\$10 for hall hire, morning & afternoon tea + donation to Lock The Gate Alliance.'⁵

Following Ricketts' model, Members of Lock the Gate and Greenpeace are themselves involved in direct action activities or offer to train members of the community in similar forms of direct action protest (see image B).

This involves:

1. Unlawfully accessing private land;
2. Unlawfully interfering with private heavy transport and construction equipment, placing themselves and others in harms way;
3. Training and inciting members of the public to unlawfully access private land and interfere with heavy equipment;
4. Direct involvement in political activism.



Image B - Emergency Services personnel remove a protester from a 'tripod' blockade.⁶

⁴ <http://aidanricketts.com/what-a-difference-direct-action-makes-resistance-thrives-on-persistence/>

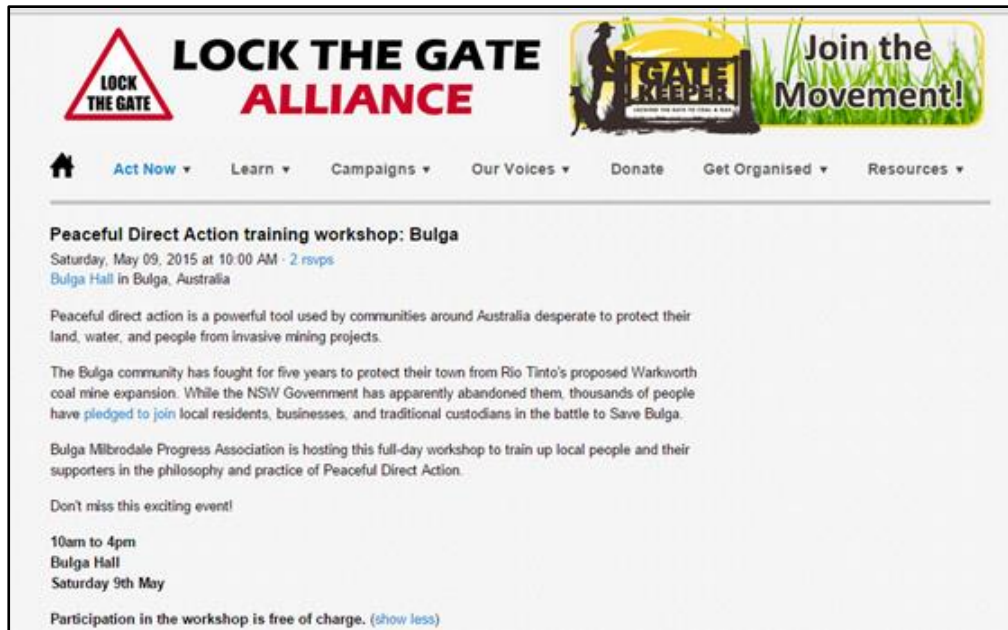
⁵ <http://aidanricketts.com/16-nov-2013-bentley-workshop/>

⁶ Source: <http://aidanricketts.com/what-a-difference-direct-action-makes-resistance-thrives-on-persistence/>

Documented 'direct action' activities and political activism by Lock the Gate

1. Training in and promotion of unlawful direct action activities

- Organised direct action training for the Bulga Community in May 2015.⁷



- Directly promoted and encouraged supporters to LIKE on Facebook, a dangerous and unlawful direct action stunt by protesters on North Head in Sydney in March 2015. Protesters unlawfully accessed private land to scale the cliffs and unfurl a protest banner.⁸



⁷ <http://www.lockthegate.org.au/>

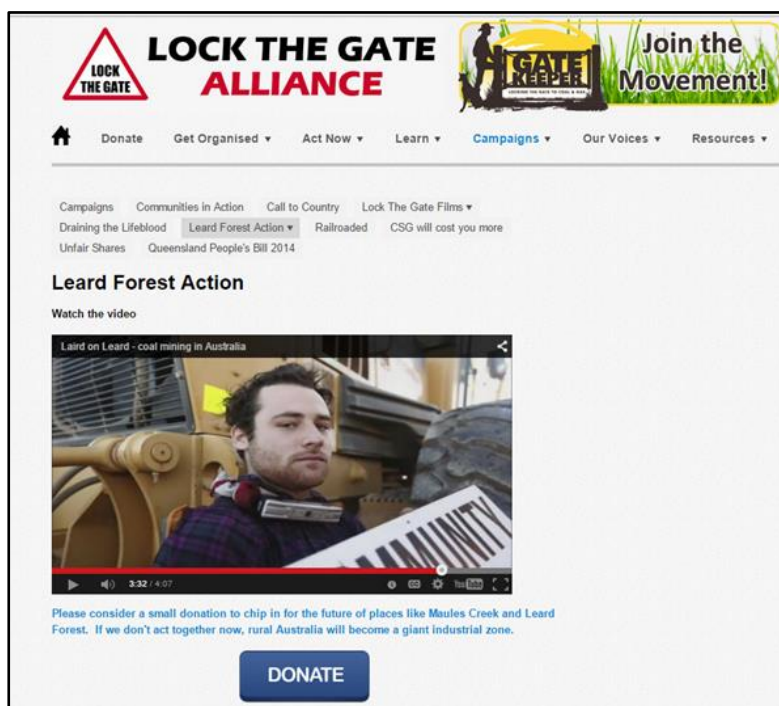
⁸ <https://www.facebook.com/Lock.The.Gate.Alliance>

2. Engagement in and direct support for those engaging in unlawful direct action activities

- Lock the Gate supported former Wallabies captain David Pocock and other protesters in unlawfully accessing privately owned land and chaining themselves to construction machinery in a protest against Whitehaven's Maules Creek mine, November 2014.⁹



- Lock the Gate supported 30 protesters unlawfully accessing Whitehaven Coal's Maules Creek construction site to chain themselves to heavy machinery, May 2014.¹⁰



⁹ Lock the Gate@LockTheGate

¹⁰ <http://www.lockthegate.org.au/>

- Regional coordinator for Lock the Gate and Director of the Sunrise Project, Carmel Flint, was arrested at a blockade at the Leard State Forest April 2012 for unlawfully accessing private land and locking herself to construction equipment.¹¹



3. Engagement in direct political activism

- Lock the Gate drafted and promoted the Bulga Declaration. The Bulga Declaration is a petition and political statement of intent, whereby activists pledge to use 'all peaceful means' to disrupt any lawful expansion of the Mount Thorley Warkworth mine in the Upper Hunter Valley.¹² The Bulga Declaration was delivered to the NSW Planning Minister as part of a protest in Martin Place Sydney in April 2015.

LOCK THE GATE ALLIANCE Join the Movement!

Home Donate Get Organised Act Now Learn Campaigns Our Voices Resources

Take Action The Bulga Declaration

The Bulga Declaration

Kevin Taggart
Wonnarua traditional custodian

John Krey
Bulga Hillside Progress Association

Barb Brown
Bulga, Emu Bay & Wonnarua Association

Ian Napier
Hunter Valley Wine & Tourism Association

The NSW government may have signed the death warrant for Warkworth Sands and the village of Bulga, but the people have not. The government and Rio Tinto are colluding against us, but we are united and we will not be subdued.

We stand with the village of Bulga and Wonnarua traditional custodians. We pledge to them that we will use all peaceful means to help them protect community and culture from the Warkworth coal mine.

¹¹ Armidale Express, April 17 2012

¹² <http://www.lockthegate.org.au/>

- Promoted, participated in and helped organise roadside protests along multiple highways in NSW and Queensland, including the Newell Highway and Pacific Highway in April 2015¹³. Protesters occupied roadside verges during the peak travel periods as families returned from school holidays. Police were forced to instruct protesters not use offensive language on their protest material.¹⁴



¹³ <https://www.facebook.com/Lock.The.Gate.Alliance>


¹⁴ <http://www.dailytelegraph.com.au/news/nsw/anti-gas-protesters-in-for-long-haul-along-the-newell-and-pacific-hughways/story-fni0cx12-1227310969723>

- Lock the Gate's Drew Hutton contributed to the secret activist funding document 'Stopping the Australian Coal Export Boom'. The first purpose of the funding was to facilitate the goal of "1. *Disrupt and delay key infrastructure: Challenge and delay key infrastructure developments (ports and rail) and 'mega-mines'*".¹⁵

Funding proposal for the Australian anti-coal movement
November 2011

This proposal is based on extensive research into the Australian coal industry, made possible by the generous support of the Rockefeller Family Fund. The proposal consists of three parts:

1. An overview of the Australian Coal Export Boom
2. A strategy to disrupt the Australian Coal Boom
3. This campaign proposal



Acknowledgements

This proposal has been developed by John Hepburn (Greenpeace Australia Pacific), with significant assistance from Bob Burton (Coalswarm) and Sam Hardy (Graeme Wood Foundation). The strategy and this proposal have incorporated extensive input from participants of the first Australian National Coal Convergence, held in the Blue Mountains in October 2011. Particular thanks are due to Mark Ogge (Beyond Zero Emissions), Paul Oosting (Getup!), Ellie Smith, Holly Creanaune (United Voice), Barry Trill (Pew), Julie Macken (Greenpeace), Drew Hutton (Lock the Gate), Kirsty Ruddock (Environmental Defenders Office NSW), Jo Bragg (Environmental Defenders Office Queensland), Patricia Julien (Mackay Conservation Group), Carmel Flint (Nature Conservation Council), Chantelle James (Capricornia Conservation Council), Mark Wakeham (Environment Victoria), Kate Lee (United Voice), Geoff Evans (Mineral Policy Institute), Richard Dennis (The Australia Institute), Belinda Fletcher (Greenpeace) and Georgina Woods (CANA) for comment, critique and input on various drafts.

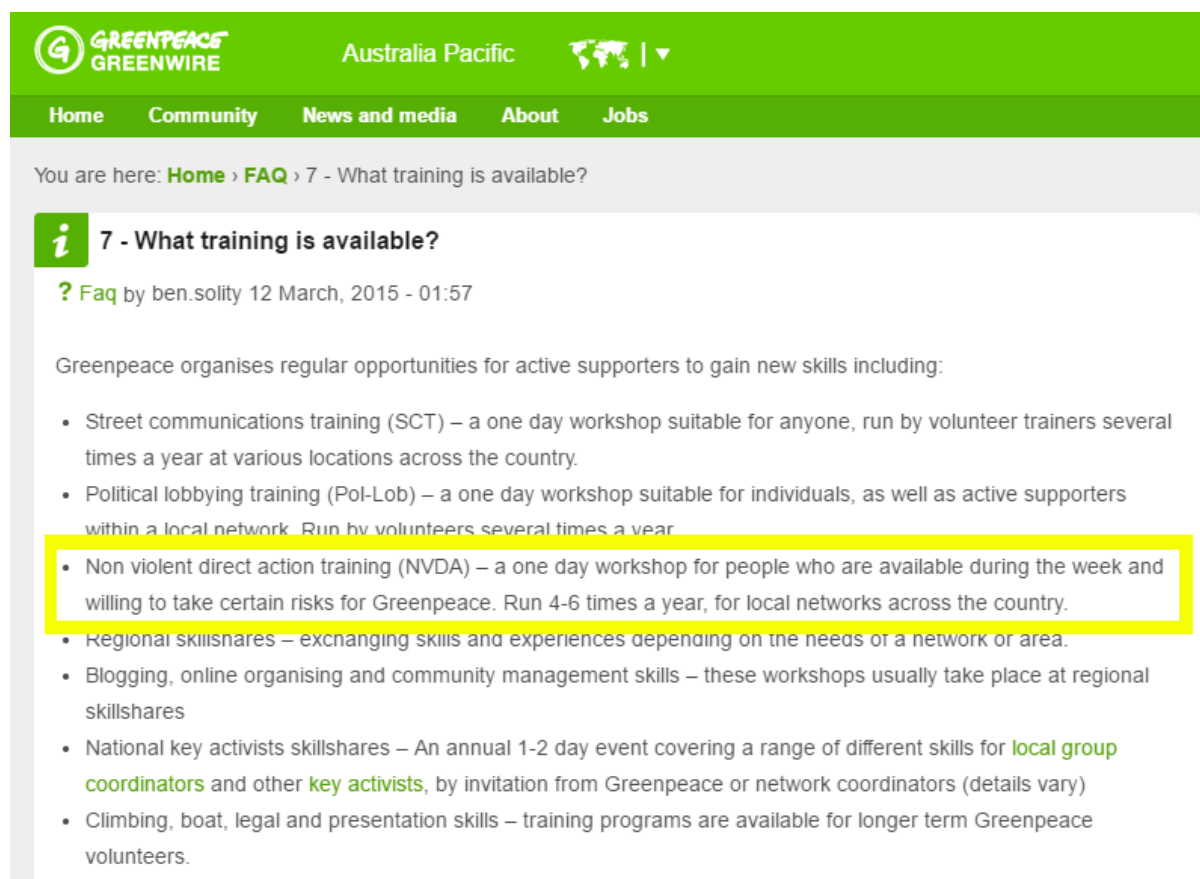
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¹⁵ Stopping the Australian Coal Mining Boom: A funding proposal for the Australian Anti-coal movement November 2011.

Documented 'direct action' activities and political activism by Greenpeace

1. Training in and promotion of unlawful direct action activities

- Greenpeace's website openly offers regular training in how to conduct unlawful protests. They present this as training Non-Violent Direct Action training for those who are 'willing to take risks for Greenpeace'.¹⁶



The screenshot shows the Greenpeace Australia Pacific website. The header includes the Greenpeace logo, the text 'GREENPEACE GREENWIRE', and 'Australia Pacific' with a globe icon. The navigation menu has links for 'Home', 'Community', 'News and media', 'About', and 'Jobs'. Below the navigation, a breadcrumb trail reads 'You are here: Home > FAQ > 7 - What training is available?'. The main content area features a green information icon and the title '7 - What training is available?'. Below the title, it says '? Faq by ben.solity 12 March, 2015 - 01:57'. The text states 'Greenpeace organises regular opportunities for active supporters to gain new skills including:' followed by a list of training opportunities. One item, 'Non violent direct action training (NVDA) – a one day workshop for people who are available during the week and willing to take certain risks for Greenpeace. Run 4-6 times a year, for local networks across the country.', is highlighted with a yellow box. Other items include 'Street communications training (SCT)', 'Political lobbying training (Pol-Lob)', 'Regional skillshares', 'Blogging, online organising and community management skills', 'National key activists skillshares', and 'Climbing, boat, legal and presentation skills'.

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2 - What do active supporters do?

Greenpeace regularly invites active supporters to:

Talk to people on the in the public, at local events and festivals, asking them to support a specific element of Greenpeace's work.

Write letters and emails to politicians, companies and decision makers, and encourage others to do the same.

Visit shops and supermarkets to demonstrate and encourage consumer support for Greenpeace's work.

Train for non violent direct action (NVDA) and be ready to take NVDA for Greenpeace.

Organise local community fundraising events.

¹⁶ <https://greenwire.greenpeace.org/australia/en-gb/node/24155>

2. Engagement in and direct support for those engaging in unlawful direct action activities

- In March 2017, Greenpeace protesters put themselves, members of the public and emergency service personnel at risk by illegally abseiling down the side of the Commonwealth Bank building in Sydney to unfurl an anti-mining banner. This occurred in a public space at the busiest entrances to office buildings. Two people were arrested by police.¹⁷
- In May 2017, Greenpeace openly admitted representatives of the organisation unlawfully scaled the Pyrmont Bridge in Sydney to unfurl an anti-mining banner. The activists put themselves, pedestrians and emergency service personnel at risk and were arrested. Greenpeace commented in the media regarding their illegal protest and promoted their exploits on digital media.¹⁸



- Also in May 2017, Greenpeace live streamed on social media their unlawful access of the NCIG coal terminal in Newcastle. Protesters put themselves and others at risk by scaling a 10 storey coal pile to unfurl an anti-mining banner. Emergency services personnel were called and 15 protesters were arrested.

¹⁷ <http://www.dailymail.co.uk/news/article-4351384/Sydney-Greenpeace-protest-Commonwealth-Bank-CBD.html>

¹⁸ (<http://www.smh.com.au/nsw/greenpeace-activists-unfurl-anticoal-anticommbank-banner-on-sydneys-pyrmont-bridge-20170504-qvyyvw.html>)

 **Greenpeace Australia Pacific**
 May 29 at 8:51am · 🌐

BREAKING: Community members have occupied a coal terminal funded by the Commonwealth Bank at the world's largest coal port in Newcastle, Australia.

They've deployed a huge message for the bank: the coal it funds is hurting people and the planet.

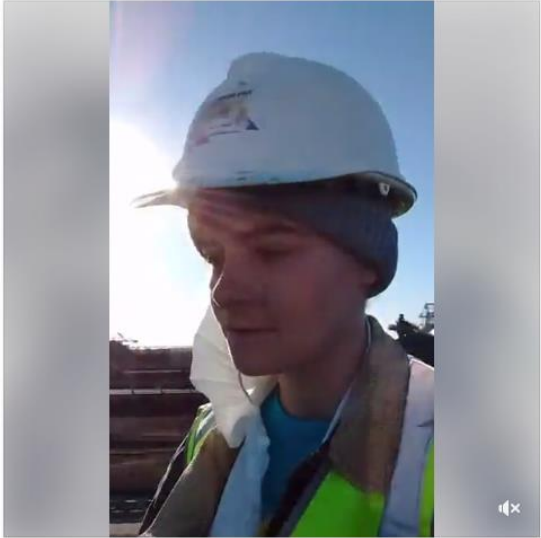
Send a message to support our community and tell CommBank to dump coal >> act.gp/2qqgKXo #coalbank



 **Greenpeace Australia Pacific** was live.
 May 29 at 8:33am · 🌐

We're LIVE from the world's largest coal port in Newcastle, Australia. Community members have occupied a coal terminal funded by Commonwealth Bank to send a clear message: CommBank's Coal Kills. Send a message to support our community and tell CommBank to dump coal >> act.gp/2qqgKXo... See More

👍 Like 💬 Comment ➦ Share



3. Engagement in direct political activism

- Greenpeace Australia Pacific's John Hepburn also contributed to the secret activist funding document 'Stopping the Australian Coal Export Boom'. The first purpose of the funding was to facilitate the goal of "1. Disrupt and delay key infrastructure: Challenge and delay key infrastructure developments (ports and rail) and 'mega-mines' (see previous footnote).

Cost to taxpayers

NSWMC Position:

Providing professional activist groups, claiming to be environmental charities, eligibility for Deductible Gift Recipient status represents a significant cost to taxpayers in the form of tax revenue forgone.

In NSW, there is also a direct cost to taxpayers in the form of emergency services resources required when police, police rescue, fire brigade and ambulance attend unlawful protests and remove protestors from mining and construction sites.

Tax revenue lost

The most immediate cost to Australian taxpayers is the significant amount of tax lost through professional activist groups like Lock the Gate and Greenpeace receiving Deductible Gift Recipient status.

An analysis of the annual reports of the 16 most aggressive activist organisations receiving Deductible Gift Recipient status, shows that they receive, as a combined average, at least \$75 million a year (see Appendix 1).

Based on an average tax rate of 24%¹⁹ the cost to taxpayers just for these 16 groups is at least \$18 million a year.

As an example, according to Lock the Gate's Annual Report for 2014, the organisation received a donation (listed as a grant) of \$1,092, 413²⁰. Though the donor is not identified, if it were from a business or individual required to pay tax under Australian law, the donor would be entitled to offset their tax liabilities by over one million dollars.

Emergency Service Personnel

An acute cost to taxpayers in NSW is the time and resources of state emergency services required to address the direct action strategies employed by Lock the Gate, Greenpeace and groups like them.

This includes police, police rescue, fire brigades and ambulance personnel. Every time emergency service personnel are called to remove protestors from Lock the Gate and similar organisations engaging in unlawful direct action protests, there is a significant monetary cost to the taxpayer. This is exacerbated by the fact that the unlawful activities of these groups take emergency service personnel away from other potentially more important duties.

An analysis of media reporting in North Western NSW alone, shows that an estimated 250 arrests have been made between 2012 and 2015 of individuals unlawfully accessing Whitehaven Coal's Maules Creek mine site and Idemitsu's Boggabri mine site.

¹⁹ http://comparativetaxation.treasury.gov.au/content/report/html/06_Chapter_4-08.asp

²⁰ Lock the Gate Alliance Limited – Annual Report June 2014

Example of environmental charity operating in NSW that meets the requirement for DGR status

One of the key areas of regard for the inquiry is that the activities of environmental organisations eligible for Deductible Gift Recipient status and listed on the Register of Environmental Organisations is ‘*the extent to which these activities involve on-ground environmental works.*’

An excellent example of an environmental charity - listed on the Register of Environmental Organisations; receiving Deductible Gift Recipient status; and that undertakes on-ground environmental works, including in NSW - is Greening Australia.

Greening Australia is a participant in the NSW Minerals Council’s Upper Hunter Mining dialogue, which brings together local miners, community and business leaders, environmental groups, residents, regulators and other industries to better understand and address the cumulative impacts of mining.

According to their website, Greening Australia is a national, non-government, environmental organisation with over 200 staff in 30 locations across the country. Their goal is to restore and conserve Australia’s diverse natural landscapes to allow people and wildlife to coexist.²¹

Their on-ground environmental works include: Revegetation (direct seeding and tubestock planting); weed and feral animal control; fencing for riparian and bushland areas; ecological fire management; grassy groundcover restoration; and whole of paddock rehabilitation.

Conclusion and recommendations on discussion questions

The evidence is clear that Lock the Gate and Greenpeace, organisations that currently receive Deductible Gift Recipient status, do not meet the definition of an environmental charity under *Income the Tax Assessment Act 1997*, Subdivision 30-E.

In contrast to the example of Greening Australia, the principal purpose of Lock the Gate and Greenpeace is not:

(a) the protection and enhancement of the natural environment or of a significant aspect of the natural environment; or

(b) the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.

As described on their own websites, these groups are committed to campaigning and illegally protesting against legitimate mining operations, putting themselves and others in danger.

This, along with the numerous examples of both Greenpeace and Lock the Gate’s support for unlawful activities proves them to be an activist group with a political, anti-mining agenda and not an environmental charity that undertakes on-ground environmental works that benefit the community or the environment.

The activities of these groups also fall outside the rules of the Government’s own governance standards for not-for-profit organisations highlighted in the Discussion Paper.

²¹ http://www.greeningaustralia.org.au/uploads/knowledge-portal/strategic_plan_conservation_without_borders.pdf

Point 7 of the Discussion Paper states:

“To be eligible to be registered as a charity with the ACNC, the organisation must also:

- *not have a ‘disqualifying purpose’ (which means the purpose of engaging in or promoting activities that are unlawful...)”*

According to the Australian Charities and Not-for-profits Commission (ACNC), any illegal activity will result in the group losing its registered charity and DGR status:

The standard requires charities to not act in a way that, under Commonwealth, state or territory law, could be dealt with as:

- *a breach of law that has a civil (not criminal) penalty of 60 penalty units (currently \$10 800) or more.²²*

The NSW Enclosed Lands Act provides penalties of \$5,000 per person arrested for trespassing and illegal protesting. The vast majority of unlawful protests by Greenpeace and Lock the Gate involve three people or more and therefore breach the ACNC’s regulations.

By receiving Deductible Gift Recipient status, Lock the Gate, Greenpeace and groups like them are effectively being subsidised to carry out their direct action strategies, including unlawful forms of protest.

Greenpeace and Lock the Gate have provided training and engaged in illegal forms of protest and should have their DGR and Considering DGR status provides Lock the Gate and Greenpeace with the same special tax treatment as legitimate charities such as The Salvation Army and Greening Australia, there is a strong case, in the public interest, for the Deductible Gift Recipient status of these groups to be rescinded or regulations amended to make them ineligible for Deductible Gift Recipient status.

NSW Minerals Council responses to specific questions:

Answer to discussion question 1.

“What are stakeholders’ views on a requirement for a DGR (other than a government DGR entity DGR) to be a registered charity in order for it to be eligible for DGR status. What issues could arise?”

In order for Government regulators including the ACNC and the ATO to regularly review and accurately assess that environmental charities are not abusing their special tax treatment and abiding by the law, groups must register with the ACNC to be eligible for DGR status.

ACNC and ATO should also be given clear direction and regulatory power to penalise, through either suspension or removal of DGR status, any registered environmental charity that engages in or promotes activities that are unlawful.

Answer to discussion question 7.

“What are stakeholders’ views on the proposal to transfer the administration of the four DGR Registers to the ATO? Are there any specific issues that need consideration?”

²² http://www.acnc.gov.au/ACNC/Manage/Governance/GovStds_3/ACNC/Edu/GovStandard_3.aspx

DGR status is a tax mechanism that allows registered charities to encourage philanthropy by businesses and individuals who can claim donations as a tax deduction. Abuse of this special tax treatment has the potential to cost Australian taxpayers billions in foregone revenue.

It therefore makes sense for the administration of the four registers to come under the remit of the Australian Tax Office, including imposing swift sanctions on groups with DGR status who engage in unlawful activity.

Answer to discussion question 9.

“What are stakeholders’ views on the introduction of a formal rolling review program and the proposals to require DGRs to make annual certifications? Are there other approaches that could be considered?”

A formal program of rolling reviews should be undertaken by government regulators, namely The Australian Tax Office, to ensure that activities of all registered environmental charities that receive DGR status do not include breaking civil or criminal laws.

The goal must be to maintain the integrity of the DGR system and not allow its abuse by registered charities. As NSW Minerals Council submission has clearly shown, two major groups operating in NSW have a record of ongoing breaches of civil law that should, under current ACNC regulations, result in these groups having their DGR status suspended or revoked. At present, these activities have to be voluntarily reported to the ACNC.

A program of rolling reviews would not only increase the likelihood of identifying groups breaching the guidelines for registered charities, but also act as deterrent for registered charities considering engaging in such activities.

Answer to discussion question 10.

“What are stakeholders’ on who should be reviewed in the first instance? What should be considered when determining this?”

Groups that should be included in the first round of reviews are those that have had documented cases over the last five years of engaging in or promoting unlawful activities that would be considered cause for having their DGR status revoked.

As noted in this submission, in NSW this should include Lock the Gate and Greenpeace Australia Pacific.

Answer to discussion question 12.

“Stakeholders’ views are sought on requiring environmental organisations to commit no less than 25 per cent of their annual expenditure from their public fund to environmental remediation, and whether a higher limit, such as 50 per cent, should be considered? In particular, what are the potential benefits and the potential regulatory burden? How could the proposal be implemented to minimise the regulatory burden?”

As this submission has shown legitimate charities like Greening Australia are able to spend the vast majority of their annual expenditure on direct on-ground activities to improve the natural environment.

The very definition of an environmental charity according *Income Tax Assessment Act 1997*, Subdivision 30-E is an organisation where their primary activity is protecting the environment:

“(1) Its principal purpose must be:

(a) the protection and enhancement of the natural environment or of a significant aspect of the natural environment; or

(b) the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.”

It not only seems completely reasonable, but self-evident that a group seeking DGR status as an environmental charity is one where at least 50 percent of their annual expenditure goes to ‘on-ground’ activities, designed to enhance or rehabilitate the natural environment.

Requiring this of legitimate registered environmental charities will add nothing to the compliance burden, as the majority of legitimate environmental charities already meet this criteria. This measure would only be a burden to those groups who are environmental charities in name only, where their primary activity is political activism, as the NSW Minerals Council has demonstrated with regard to Greenpeace and Lock the Gate.

Answer to discussion question 13.

“Stakeholders’ views are sought on the need for sanctions. Would the proposal to require DGRs to be ACNC registered charities and therefore subject to ACNC’s governance standards and supervision ensure that environmental DGRs are operating lawfully?”

The only way to ensure the integrity of the DGR regime is to ensure that registered environmental charities that receive DGR status are abiding by the Government’s guidelines, including obeying State and Federal civil and criminal laws.

As has been demonstrated by this submission, groups that undertake unlawful protest activity put the safety of themselves, site employees and emergency service personnel at risk. They require emergency services to be pulled away from more important duties to remove them and they prevent lawful and legitimate workplaces from operating.

Sanctions are the most efficient and expedient measure to ensure that Australian taxpayers are not subsidising unlawful activity by allowing registered charities that break the law to continue to receive DGR status.

Evidence that a registered environmental charity receiving DGR status has promoted or engaged in unlawful activity should be immediately investigated by the ATO. Any group found to have conducted unlawfully activity should have their DGR status immediately suspended pending a review. Should the review confirm illegal activity was undertaken, the DGR status of the charity should be revoked.

In addition, the Federal Minister for Revenue and Financial Services should have the legislative power to immediately suspend or cancel the DGR status of any group found to have engaged in unlawful activity.

Appendices

1. Registered environmental groups finances – attached.

	2014	31-Dec-13	2012	2011	2010	2009	2008	2007	2006	TOTAL	Av/year	ABN	ACNC Register?
Appendix 1 Registered Environmental Groups Finances													
		\$564,740,000											
Greenpeace Australia - Income (cal yr)		\$17,200,000	\$16,800,000	\$16,200,000	\$16,000,000	\$17,390,000	\$19,890,000	\$18,800,000	\$15,600,000	\$137,880,000	\$17,235,000		
Campaign expenditure		\$9,200,000	\$10,200,000	\$10,200,000	\$10,500,000	\$11,800,000	\$11,400,000	\$9,600,000	\$7,800,000	\$80,700,000	\$10,087,500		
Net Assets		\$4,861,000	\$1,014,000	\$1,873,000	\$2,925,000	\$3,934,000	\$5,516,000	\$5,700,000	\$4,300,000	\$30,123,000	\$3,765,375		
World Wildlife Fund - Income (fin yr)	2013-14	\$26,500,000	\$24,203,000	\$19,394,000	\$16,890,000	\$23,684,000	\$20,720,000	\$18,105,000	\$17,772,000	\$197,068,000	\$21,896,444.44		
Domestic projects'		\$9,885,000	\$7,902,000	\$8,743,000	\$10,656,000	\$11,080,000	\$8,917,000	\$8,122,000	\$6,158,000	\$83,063,000	\$9,229,222.22		
Net Assets		\$7,549,000	\$8,142,000	\$5,871,000	\$4,898,000	\$5,985,000	\$5,923,000	\$6,612,000	\$7,311,000	\$60,120,000	\$6,680,000.00		
Friends of the Earth (Australia) - Income	2013-14	\$1,525,000	\$878,000	\$616,000	\$671,000	\$794,000	\$592,000	\$421,000		\$5,497,000	\$785,285.71	18 110 769 501	Yes
Expenditure		\$1,405,000	\$800,000	\$749,000	\$638,000	\$610,000	\$462,000			\$5,481,000	\$783,000		
Net Assets		\$267,000	\$147,000	\$70,000	\$350,000	\$194,000	\$212,000			\$1,511,000	\$215,857.14		
Friends of the Earth (Melbourne) - Income	2013-14	\$1,207,000	\$1,129,000	\$1,074,000	\$1,282,000	\$1,337,000				\$6,029,000	\$1,205,800	68 918 945 471	Yes
Expenditure		\$1,162,000	\$1,107,000	\$1,251,000	\$1,228,000	\$1,219,000				\$5,567,000	\$1,193,400		
Net Assets		\$321,000	\$276,000	\$253,000	\$430,000	\$376,000				\$1,656,000	\$331,200		
Friends of the Earth (Brisbane) - Income	2013-14	\$49,000	\$46,000	\$48,000						\$143,000	\$47,667	13 465 767 789	Yes
Expenditure		\$40,000	\$21,000	\$83,000						\$144,000	\$48,000		
Assets		\$38,000	\$29,000	\$5,000						\$72,000	\$24,000		
The Sunrise Project - Income	3/7/12-31/12/13	\$4,057,000								\$4,057,000	\$4,057,000	65 159 324 697	Yes
Expenditure		\$3,100,000								\$3,100,000	\$3,100,000		
Net Assets		\$888,000								\$888,000	\$888,000		
Lock the Gate - Income (ACNC)		\$1,765,000	\$556,000	\$87,000						\$2,408,000	\$602,666.67	33 156 099 080	Yes
Expenditure		\$948,000	\$366,000	\$43,000						\$1,357,000	\$452,333.33		
Net Assets		\$1,057,000	\$239,000	\$49,000						\$1,345,000	\$448,333.33		
350.org - Income (ACNC)		\$368,000	\$58,000	\$10,000						\$436,000	\$145,333.33	46 138 155 192	Yes
Expenditure		\$364,000	\$44,000	\$19,000						\$427,000	\$142,333.33		
Net Assets		\$19,000	\$14,000	\$191						\$33,191	\$11,063.67		
Australian Youth Climate Coalition - Income (ACNC)		\$1,093,000	\$805,000	\$788,000						\$2,686,000	\$895,333.33	67 145 851 912	Yes
Expenditure		\$958,000	\$719,000	\$751,000						\$2,428,000	\$809,333.33		
Net assets		\$325,000	\$190,000	\$104,000						\$619,000	\$206,333.33		
Australian Conservation Foundation - Income (fin yr)		\$12,420,000	\$13,316,000	\$12,693,000	\$12,462,000	\$21,474,000	\$13,451,000			\$108,445,000	\$13,555,625	22 007 498 482	Yes
Expenditure		\$12,858,000	\$13,125,000	\$12,361,000	\$13,977,000	\$14,891,000	\$13,523,000			\$98,557,000	\$12,319,625		
Net assets		\$14,393,000	\$14,659,000	\$14,164,000	\$13,921,000	\$15,436,000	\$8,853,000			\$93,351,000	\$11,668,875		
The Wilderness Society - Income		\$13,304,000	\$13,780,000	\$12,711,000	\$14,483,000	\$15,044,000	\$14,533,000	\$12,152,000		\$96,007,000	\$13,715,285.71	21 147 806 133	Yes
Expenditure		\$12,551,000	\$13,705,000	\$12,216,000	\$15,479,000	\$15,900,000	\$15,883,000	\$12,895,000		\$98,629,000	\$14,089,857.14		
Net Assets		\$1,535,000	\$782,000	\$707,000	\$211,000	\$1,207,000	\$2,064,000	\$3,414,000		\$9,920,000	\$1,417,142.86		
Our Land Our Water Our Future - Income	n/a											55 646 768 073	Yes
Expenditure													
Australian Marine Conservation Society - Income		\$714,000	\$456,000	\$389,000	\$431,000	\$356,000	\$283,000	\$394,000	\$329,000	\$3,613,000	\$401,444.44		
Expenditure		\$669,000	\$452,000	\$447,000	\$413,000	\$302,000	\$410,000	\$339,000	\$308,000	\$3,653,000	\$405,888.89		
Net Assets		\$219,000	\$174,000	\$170,000	\$204,000	\$185,000	\$142,000	\$161,000	\$177,000	\$1,612,000	\$179,111.11		
Bob Brown Foundation - Income (ACNC)		\$255,000								\$255,000	\$255,000	51 634 785 002	Yes
Expenditure		\$179,000								\$179,000	\$179,000		

Net Assets	\$94,000						\$94,000						
Markets for Change - Income (ACNC) (fin yr)											18 148 079 645	Yes	
Expenditure	\$19,000	\$197,000					\$216,000						
Net Assets	\$50,000	\$640,000					\$690,000						
	\$15,000	\$46,000					\$61,000						
The Climate Institute - Income													
Expenditure	\$1,900,000	\$2,827,000	\$3,379,000	\$3,635,000	\$2,663,000	\$2,267,000	\$16,671,000						
Retained profits	\$2,121,000	\$2,030,000	\$3,381,000	\$2,598,000	\$2,531,000	\$2,126,000	\$14,787,000						
	\$2,639,000	\$2,860,000	\$2,064,000	\$2,066,000	\$1,030,000		\$10,659,000						
Total revenue												\$77,884,385	
Get Up! - Income (fin yr)													
Expenditure	\$7,534,000	\$4,061,000	\$2,712,000	\$5,021,000	\$1,673,000	\$2,269,000	\$24,377,000						
Net Assets	\$6,808,000	\$2,955,000	\$3,675,000	\$5,084,000	\$1,808,000		\$21,426,000						
												99 114 027 986	No
The Australia Institute - Income (ACNC)													
Expenditure	\$2,126,000	\$1,003,000					\$3,129,000						
Net Assets	\$1,791,000	\$1,325,000					\$3,116,000						
	\$1,078,000	\$742,000										90 061 969 284	Yes