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Senior Adviser  
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The Treasury  
Langton Crescent PARKES ACT 2600

1 August 2017

Dear Sir/Madam,

**Re: Tax Deductible Gift Recipient Reform Opportunities Discussion Paper 15 June 2017**

Thank you for the opportunity to comment on the DGR Discussion Paper.

The Victorian National Parks Association (VNPA) is both an endorsed deductible gift recipient and an environmental organisation listed by name in the Tax Act. Although VNPA is not listed on the Register, we have chosen to provide this submission because any curtailing of environmental advocacy is a threat to community conservation efforts generally, and could have significant impacts for and the ability of VNPA in partnership with our colleagues to pursue our organisational and charitable objectives.

VNPA is an independent, non-profit, membership and supporter based organization. We have a large number of committed members and supporters (around 9,000), including many family members, representing Victorians from a wide social demographic. We believe our aims and our work for nature conservation have the support of a significant proportion of Victorians.

VNPA was established in 1952 on the back of an earlier association formed in 1908; it is the leading voice for community-based nature conservation in Victoria. We meet regularly with government agencies and State Government ministers, and occasionally national ministers and officials.

Our aim is to work by actively encouraging community involvement in conservation and building an appreciation of nature and national parks through community education and engagement. There has been community-based advocacy for national parks and other protected areas for over 100 years in Victoria. This advocacy has played a key role in creating a network of national parks and conservation reserves across land and sea, as well as a range of other conservation policy initiatives.

The national parks and protected areas estate generates significant benefit to community, protecting nature but also providing respite and recreation to the people who make 98.5 million visits per year to national parks and other Parks Victoria managed assets, generating \$1.4 billion per year through parks tourism and supporting 14,000 jobs across Victoria.

Our programs include tree planting and monitoring plants and animals through our NatureWatch and ReefWatch programs. The VNPA also runs one of the largest volunteer lead bushwalking and activities programs in Victoria. The VNPA also partners with Government, Industry and Universities to organise academic conferences and educational events. We also publish information through our newsletters,

magazine and occasional books and reports.

VNPA also proudly advocates for protection and management of national parks, the creation of new national parks to complete the reserve system, and broader policy discussions around protection of natural heritage and biodiversity. Our model of work does not separate the role of enjoyment, remediation and advocacy for nature as we see these as part of the same continuum of concern for our natural heritage, as well as a key feature of our democracy.

### **Response to Discussion Paper**

VNPA supports charity regulation that is efficient, reduces duplication and red tape, and simplifies and standardises process. Any reforms must maintain accountability and transparency, integrity and fairness, and protect freedom of speech.

We would be concerned if beneficial reforms were derailed by politicised proposals. VNPA is concerned that there is political motivation behind this Inquiry. This concern is underpinned by public statements made over the past 18 months by the Federal Council of the Liberal Party,<sup>1</sup> Coalition MPs<sup>2</sup> and representatives from the Minerals Council of Australia and the Institute of Public Affairs (IPA),<sup>3</sup> all of which have targeted the advocacy role of Australia's environmental organisations. There have been calls for the removal of tax deductible status for these organisations, and for changes to the Competition and Consumer Act<sup>4</sup> and the Corporations Act<sup>5</sup> to restrict their advocacy.

VNPA believes that there is sufficient evidence to warrant concern that the Inquiry will be used as an attempt to limit the freedom of speech of advocacy-based environmental organisations; and to ban or restrict deductible gift recipient status for these organisations.

As one of the older environmental charities in Australia, VNPA is particularly concerned that the Terms of Reference will be used to call in to question activities of environmental groups that are perceived in some way as not 'on the ground' and therefore the Inquiry is intended to restrict environmental groups engaging in advocacy activities from accessing deductible gift recipient status

### **Strengthening Governance Arrangements**

#### **Issue 1 – Transparency in DGR dealings and adherence to governance standards**

VNPA has found the ACNC processes efficient, transparent and helpful. We support proposals for simplified and standardised regulation though an increased role for the ACNC.

It is important that any regulator be independent and that process be transparent to maintain public confidence. We do not believe the public would support proposals to extend Ministerial discretion and departmental or ATO regulation. Charities represent a wide spectrum of community values and interests, sometimes strongly held and opposing. Regulation must be fair and non discriminatory.

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<sup>1</sup> ABC News (30 June 2014) [http://www.abc.net.au/news/2014-06-29/andrew-nickolic-moves-to-strip-charity-status-from-some-environ/5557936?WT.ac=statenews\\_tas](http://www.abc.net.au/news/2014-06-29/andrew-nickolic-moves-to-strip-charity-status-from-some-environ/5557936?WT.ac=statenews_tas)

<sup>2</sup> Daily Mercury <http://www.dailymercury.com.au/videos/christensen-sets-his-sights-green-political-activi/22865/>

<sup>3</sup> Sinclair Davidson for Minerals Council of Australia 'A Critique of the Coal Divestment Campaign' (2014) ([http://www.minerals.org.au/file\\_upload/files/reports/A\\_critique\\_of\\_the\\_coal\\_divestment\\_campaign\\_Sinclair\\_Davidson\\_Jun\\_2014.pdf](http://www.minerals.org.au/file_upload/files/reports/A_critique_of_the_coal_divestment_campaign_Sinclair_Davidson_Jun_2014.pdf))

<sup>4</sup> A review of competition law has the parliamentary secretary for agriculture, Richard Colbeck, talking about repeal of Section 45DD of the Competition and Consumer Act. <http://www.theaustralian.com.au/national-affairs/companies-to-get-protection-from-activists-boycotts/story-fn59niix-1226724817535>

<sup>5</sup> Sinclair Davidson for Minerals Council of Australia 'A Critique of the Coal Divestment Campaign' (2014) ([http://www.minerals.org.au/file\\_upload/files/reports/A\\_critique\\_of\\_the\\_coal\\_divestment\\_campaign\\_Sinclair\\_Davidson\\_Jun\\_2014.pdf](http://www.minerals.org.au/file_upload/files/reports/A_critique_of_the_coal_divestment_campaign_Sinclair_Davidson_Jun_2014.pdf))

## **Issue 2 – Ensuring DGRs understand their obligations e.g. regarding advocacy**

The ACNC Annual Information Statement seems an efficient tool for collecting information. However, asking the ACNC or other body to oversee and rule on advocacy activities seems fraught, complex and inefficient. It would be very time consuming to oversee the wide and diverse range of charities, and imbedded forms of advocacy.

Reforms are unlikely to win public support if they are seen as discriminatory in singling out DGRs or the environment sector in particular. This is particularly so in advocacy, where the public see advocates on both sides and like to see an equal playing field where the contest of ideas is fair and non discriminatory.

There would be much alarm at a Minister attempting to dictate how a charity pursues its purposes. In many ways, it is a clear conflict of interest for ministers of the crown to dictate to the community, views, advice or policy ideas that may be counter to a political party or government policy. Often debate and the thoughtful presentation of counter evidence can improve or inform policy for the benefit of the broader community. Furthermore, advocacy in any democratic country is to be welcomed as it encourages all sides of a debate and ensures freedom of speech. Any selective limitation on access to the courts would also likely be seen as highly political and discriminatory.

## **Reducing Complexity**

### **Issue 3,4 – Complexity under the four DGR Registers and Public Fund requirements**

As noted above, VNPA supports an increased role for the ACNC as an independent regulator of the charity sector. VNPA may reconsider support for such an increased role if changes at the ACNC meant a lessening in the Government's commitment to an independent regulator.

## **Integrity**

### **Issues 5, 6 – Reviews and sunset proposal, Specific Listing of DGRs**

VNPA supports regular but efficient review. Reviews are very expensive for DGRs and also for the taxpayer, whether ACNC or another body. The VNPA does not support the proposed general 5-year sunset rule, as it would be a costly and inefficient way of identifying problems. It would lead to duplication in oversight and reporting. It would also be an unfair and onerous burden on DGRs who are doing the right thing.

The VNPA supports the tax deductible elements of charities which undertake advocacy, as they provide significant low cost and independent policy advice to ensure stable and effective regulation. It would appear a highly discriminatory and political intervention into charity regulation to remove the listing of one type of organisations.

## **Parliamentary Inquiry into the Register of Environmental Organisations**

### **Recommendation 5 – Require Environment DGRs to spend >25% or >50% on remediation**

At the VNPA, 'remediation programs' could be inextricably linked to nature and activity programs, education, publishing, research and advocacy. Enjoyment, remediation and advocacy for nature are part of the same continuum of concern for our natural heritage and many people take part in all of these activities, sometimes simultaneously.

We also note the discussion paper's assertion, which is not backed by any obvious evidence, that "there are also concerns that some charities and DGRs undertake advocacy activity that may be out of step with the expectations of the broader community particularly by environmental DGRs which must have a

principal purpose of protecting the environment”.

We note that stopping harm, through policy or regulation, is in most cases a more efficient way of protecting the environment than on-ground work aimed at restoration or remediation. For example, Remnant Native Vegetation Investigation Final Report by the Victorian Environmental Assessment Council (VEAC), an independent statutory authority, concludes that, *‘Preventing habitat loss and improving the condition of native vegetation is, by many orders of magnitude, more cost-effective than revegetation and has significantly better conservation outcomes’*<sup>i</sup>

It would be very confusing and time consuming, if at all possible with existing resources, to effectively define, extract, assess and oversee ‘remediation programs’. Many of our members and donors have been involved and active in the association for many decades. Many are experienced specialists in the field and provide very effective and efficient oversight of VNPA and we have stable and well developed governance and management procedures.

**Recommendation 6 – Sanctions against Env DGRs encouraging unlawful activity**

The Charities Act and other legislation already provide for disqualification for unlawful or political activity. Alternative and stricter provisions would increase complexity and be discriminatory. There may be a role for the Electoral Commission, as an independent and experienced regulator, to play a role in regulation of illegal electoral activity, if such activity does occur.

**Recommendation 8 – Reform to limit conduit behavior**

VNPA does not support misleading behaviour, however many small, local or regional conservation groups greatly benefit from auspicing or hosting arrangements from larger organisations with established management and administrative procedures. This can be a very efficient way to share resources and capacity.

We are also concerned that this would also create double standards. It would be past time, welcome and appropriate to apply the same reforms to limit conduit behaviour to the regulation of political donations and lobbyists.

Likewise, while the intent of the changes appears to focus on trying to limit advocacy, the opposite impact may also occur. If advocacy become an unlawful use of donations, it is likely that other non-tax-deductible income sources will be maintained or volunteer effort expanded with the potential to force advocacy essentially ‘underground’, removing the need for organisations to abandon non-partisan policies and increasing the likelihood that groups will more likely advocate a specific vote or become more partisan, not less, as there will be little benefit for organisations trying to fulfil their purposes in participating in a discriminatory or limiting regulatory framework.

Thank you for considering our submission.

Yours sincerely



Matt Ruchel  
Executive Director

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<sup>i</sup> remnant Native Vegetation Investigation Discussion Paper FOR PUBLIC COMMENT, June 2010. Page 3  
<http://www.veac.vic.gov.au/documents/Discussion%20Paper%20-%20Full%20Report%20RNV.pdf>