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Dear Sir/Madam

**Submission: Deductible Gift Recipient (DGR) Reform – Requiring DGRs to be registered as charities**

Thank you for the opportunity to provide written feedback on the draft bill and explanatory memorandum, which require non-Government Item 1 Deductible Gift Recipients (**DGRs**) to register as charities with the Australian Charities and Not-for-profits Commission (**ACNC**).

**1 Professional Background**

I lead the Sydney Charity and Not-for-profit team at Mills Oakley, an Australian national law firm offering legal services across a range of key commercial practice areas.

I have over 25 years' experience acting for numerous charities, religious and other not-for-profit organisations. I sit on a number of boards and committees including the ACNC Professional User Group, Eric Dare Foundation, the Cemeteries & Crematoria NSW Community and Consumer Consultative Group, and Everyday Justice.

My team at Mills Oakley regularly assists clients on governance issues, and frequently advises organisations on Australian Taxation Office (**ATO**) and ACNC endorsements, constitutions, mergers, structural issues and social enterprises. A significant part of our practice is advising on DGR endorsement. Some of our key clients include the Australian Catholic University, Australian College of Nursing, Providential Homes Ltd and Omnicare Alliance.

**2 Draft Bill and Explanatory Memorandum****2.1 Introduction**

As identified in the frequently asked questions, the current system of DGR endorsement in Australia can be complex and administratively burdensome. Our experience has been that seeking DGR endorsement requires a significant investment of both time and money for organisations that often have limited resources. The proposed reform is a welcome change, and we are optimistic that the reform will bring further clarity and efficiency for entities that seek DGR registration in the future.

## 2.2 Law Reform

Broadly, we agree with Treasury's assertions that the law reform as detailed will reduce administrative complexity, strengthen governance arrangements and result in a more consistent regulatory regime. Including charity registration as a prerequisite for all entities seeking DGR endorsement ensures a more even application of the law.

The reduction in forms and applications, as outlined in paragraph 1.15 of the explanatory materials, is particularly consequential. The opportunity to reduce 'red tape' by streamlining the application process will be invaluable for not-for-profit entities. By limiting the duplication of forms, the barriers to entry for organisations seeking endorsement will be lowered.

There are also inconsistent governance and reporting requirements for DGRs, with some organisations being required to report both to the registrar (e.g. Register of Environmental Organisations or Register of Cultural Organisations) and the ACNC. By making charity registration a prerequisite for DGR status, for the 11 categories, the governance of DGRs will improve and greater compliance of reporting obligations will be achieved.

A positive short-term consequence of the reform will be a 'clean-up' of non-charity entities that currently hold DGR endorsement. Requiring these entities to register as charities with the ACNC will have the effect of filtering out those that currently do not meet the legal standards, but have continued their operations.

In light of the expanded requirements, entities in the 11 DGR categories that were not previously required to register as a charity should be entitled to the full extended application date. This is because many of these entities may need to seek legal advice or make substantial changes to their organisational structures and operations.

It is also imperative that these reforms are clearly communicated to all entities that will be required to register with the ACNC. These organisations should be directly informed of their obligations, as well as the ability to request an extended application date. Where these organisations cannot be contacted in the first instance, alternative arrangements should be in place to ensure that organisations are made aware of the new requirements.

## 2.3 Transitional Provisions

We submit that the transitional provisions as detailed by the explanatory memorandum are reasonable and will enable non-charity DGRs to effectively adapt to the new regulatory regime. It is also fair and reasonable that any non-charity DGR that is disendorsed by the ATO during this period is allowed to submit a new application for DGR status.

In our view, the initial three-month period from Royal Assent until the application date should be used to clearly communicate with entities that will be impacted by the amendments. We further encourage the ATO and the ACNC to take an educational approach throughout this transition period for DGRs.

## 3 Conclusion

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We submit that these amendments will have a positive and effective impact upon the current system of DGR registration. Increasing efficiency and minimising 'red-tape' is a vital goal for the regulation of a sector that provides such critical benefit to the broader Australian economy. We are hopeful that in practice, these reforms will streamline

administrative procedures and lower the barrier to entry for those seeking endorsement.

If you have any questions or requires further information regarding our comments, please do not hesitate to contact me.

Yours sincerely



**VERA VISEVIC**  
**PARTNER**

**(CO-AUTHORED WITH LACHLAN CLARK, LAW GRADUATE AND ALISON SADLER,  
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