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Individuals and Indirect Tax Division
The Treasury
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To whom it may hopefully concern,

I write as a private citizen concerned with aspects of the proposal set out in the

Tax Deductible Recipient Reform Opportunities Discussion Paper.

Support for ACNC registration requirement

The suggestions that all NFPs be required to be registered with the ACNC is commendable. The Requirements for registration provide strong, appropriate and on-going public protection and adequate sanctions. The ACNC focus on *charitable purpose* as a key legitimating principle is both robust and appropriate.

Support for the AIM of reducing complexity

The Discussion Paper raises concerns that the current application process for obtaining DGR status is too complex. This focus on removing or avoiding egregious red tape is to be applauded. It is hard to understand, therefore, why the Paper goes on to propose additional requirements in terms of regular rolling reviews of review of status. The ACNC requires annual reporting and the ATO requires annual audited returns. This is adequate and appropriate. It is hard to see any benefit from an additional review process and the inevitable costs and unproductive activity would be a drain on the capacity of an NFP to fulfil its charitable purpose.

Opposition to Recommendation 5

Recommendation 5 is similarly at odds with the aim of reducing complexity in regulation. It suggests that environmental NFPs should be required to spend no less than 25% of their budgets on remediation to retain DGR status. This is strongly opposed on several grounds.

- It imposes an onerous regulatory burden which diminishes the effective capacity of the charity to meet its purpose
- It imposes a functional stricture on NFPs which assumes government knows best about the appropriate mix of remediation, education and advocacy. It calls for a marked departure from the overall principle that a charity's status should be determined principally by its purpose rather than by a dissection of their activities.

Charities should have the autonomy to determine how their purpose should best be served within the accountability processes required by the ACNC.

- It is fundamentally anti-democratic in that it aims to limit the capacity of charities to advocate for their legitimate purpose.
- It imposes an extra burden of unproductive work on an already resource stretched ATO in assessing whether the 25% (or 50%?!?) requirement has been met.
- It is proposed only for environmental NFPs without any explanation why this should be so. Why should advocacy for clean waterways for example, be effectively discouraged while advocacy for animal welfare or disability access are not?
- Obviously, the above concerns are doubly alarming and opposed in the case of a 50% remediation requirement.

Recommendation 6 opposed as undemocratic and unnecessary.

There are obviously laws in place that put sanctions on illegal and unlawful activity. Those who break the law usually face the consequences. In some cases, however, such behaviour is an ethical and necessary component of a functioning democracy. Non-violent civil disobedience has a long and honourable tradition including examples such as Ghandi, Mandela and Martin Luther King. Advocacy for the rights of women to vote, the abolition of slavery, the outlawing of child labour have all involved the endorsement of illegal activity. It has also enriched and improved our society. Why should an organisation that supports the rights of people to passively resist an old growth logging operation be discriminated against when another which supports its spokespeople to act in contempt of court is not?

Clause 77 continues the pattern of confounding activities with purposes. "The purpose of engaging in or promoting activities that are unlawful or contrary to public policy.." Registered charities with the ACNC must specify their overall purpose. Engaging in activities is *not* a purpose. It may be a strategy, but it is not a purpose. This clause attempts to dissuade charities from activities that are contrary to *public policy*. Presumably this means that any charity engaged in activities contrary to government policy could potentially lose its tax-deductible status. If Australian Red Cross or World Vision advocates for Australia to increase its foreign aid contrary to government policy would they too be penalised? Similarly, if an organisation's purpose is legitimate and accepted by the ACNC there may be activities to further that purpose that could be described as political. The highlighting of a candidate or party policy that supports or erodes that purpose may be a legitimate strategy for advancing that purpose. This clause is repressive and anti-democratic and should be removed along with the rest of Recommendation 6.

In summary, the paper espouses some good principles, but contains contradictory recommendations. It calls for a reduction in complexity, yet introduces requirements that increase it. It correctly calls for registration with the ACNC but departs from the

ACNC's guiding principle of assessing an organisation's purpose. It ignores the fact that a charity's activities may not accord with government preferences, yet may be legitimately advancing a legitimate purpose and be working for the longer term public good.

Yours sincerely,

A handwritten signature in blue ink that reads "Paul Laris". The signature is written in a cursive style with a large initial 'P'.

Paul Laris

