

The Hon. John Brumby MLA  
Premier of Victoria  
Level 1, 1 Treasury Place  
EAST MELBOURNE VIC 3002

20 December 2007

Dear Premier

### **State Services Authority Review of Not-for-profit Regulation**

You will be aware of our Association and our commitment to our purpose of *More People Cycling More Often*. We believe that our past contribution to the community and any future role depends on us being a strong Association operating in an environment that is conducive to healthy Associations.

It is for this reason that we wish to comment on two recommendations which we understand are embodied within the report by the State Services Authority.

1. Compulsory transfer of larger incorporated associations to companies limited by guarantee under the Corporations Act.

In our opinion requiring associations to transfer their incorporation from the Victorian *Associations Incorporations Act* to become companies limited by guarantee under the *Corporations Act* is not appropriate because:-

- Your government via its Minister for Consumer Affairs previously stated that it would not require such a transfer. We have relied on that representation.
- The Corporations Act is clearly intended to regulate for-profit companies. Many of the provisions of the Corporation Act are unsuitable for not-for-profit organisations.
- The practical difficulties, such as ensuring that every association member reaches agreement to become a company limited by guarantee are insurmountable
- The legal and other costs of becoming and remaining a company limited by guarantee are significant, for which there are no advantages available to associations
- Regulation by the Corporations regime or Australian Securities Investment Commission (ASIC) as a corporate regulator offers no advantages to associations, indeed ASIC has shown no interest, nor provided resources for, the regulation of companies limited by guarantee.

We would support the proper resourcing of a regulator such as Consumer Affairs Victoria (CAV) or another new body that specialised in its support and regulation of the not-for-profit sector.

2. Removal of current financial reporting requirements

In our opinion the removal of the requirement for all associations to lodge with CAV a financial statement is not appropriate because:-

- this will mean effectively no oversight of associations where those associations do not fund raise from the public or receive State Government funding
- the capability of CAV to establish whether an association is functioning or defunct will be significantly hampered
- members of the public will have even fewer avenues to be assured that the entity is operating appropriately and or that surpluses are not being distributed to members
- moves which potentially lessen public confidence in the not-for-profit sector jeopardise the strong support the sector enjoys
- such a move will lessen the incentive for a Board or Committee to ensure that proper books of account are kept and that financial statements are drawn up

We thank you for taking the time to consider these matters. We trust that you will join us in working towards making both our Association and the sector in which we operate vibrant and strong.

Yours sincerely



Harry Barber  
Chief Executive Officer