



Committee Secretary
House of Representatives Standing Committee on the Environment
PO Box 6021
Parliament House, Canberra ACT 2600

24 July 2015

Dear Sir/Madam

**Submission to House of Representatives Standing Committee on the Environment
Inquiry into the Register of Environmental Organisations 2015**

CounterAct welcomes the opportunity to make this submission to the Inquiry.

1. Overview

A well-functioning civil society is fundamental to democracy. The Australian environment movement has a long and vibrant history of actively participating in the democratic process, representing the views and concerns of Australian citizens on matters of significant local, regional and national importance that directly impact their lives.

Through the work of a diverse range of organisations, incorporating the full spectrum of activities from on-ground conservation works, community education, advocacy and protest, the Australian environment movement has been critical to securing outcomes that are to the benefit of all Australians.

The value which Australians place on environmental action is demonstrated by the millions of dollars donated by ordinary Australians to environmental organisations every year. This reflects the serious concern that millions of Australians feel about the key environmental challenges of our time – climate change, biodiversity loss, and risks to our food and economic security posed by land and water degradation, mining and unconventional gas development to name but a few.

As citizens of a liberal democracy, Australians have the right to voice concerns about decisions which affect their lives and future, and to do so collectively through organisations which represent their views. Good public policy and sound decision-making operating in the best interests of all Australians, depends on participation by the widest possible range of voices and interests, not just those with the deepest pockets.

Millions of Australians are prepared to financially support the work of environment organisations through donations every year, to ensure that the environment has a voice in decisions on the direction our country takes. The tax deductible status of these donations reflects the value which all Australians, not just donors, gain from the continued existence of vibrant democratic debate about issues of national importance.

2. Specific comments on the Terms of Reference

As with the overwhelming majority of submissions the committee has received we would like to express our grave concern with the approach to this inquiry.

There is numerous evidence that points towards this having a pre-determined outcome.

In statements by committee chair Alex Hawke MP:

“Over 600 environmental groups are currently deductible gift recipients. This allows them to access tax-deductible donations to fund important, practical work to improve the natural environment. We need to ensure that tax deductible donations which are a generous concession from the taxpayer, are used for the purpose intended and expected by the community” Alex Hawke MP” - 31 March 2015

“I think there will be some evidence to say, and we’ll see what it does say, that we should tighten the definition of a charity for environmental groups.... the environment register is for groups to do actual practical environmental work or some education and other purposes”- Alex Hawke MP - 10 April 2015

And in an exchange on social media from committee member, George Christensen MP, which he was then requested to apologise for:

“Time to get the get the donations in. I can’t see it continuing longer once we report”¹

¹ <http://www.abc.net.au/news/2015-07-15/george-christensen-tweet-angers-conservation-groups/6620458>

Senator Matthew Canavan also made comments that indicate motivations towards the terms of reference being framed to seek restrictions to “on ground works” with up to 25% of the sector at risk of losing their status:

“We've got about 100 or 150 organisations that are engaged in activity which seem to have their purpose at stopping industrial development. Not just mining. Some of those developments include tourism developments or agricultural developments. But engaging in what I would view as the political debate, not the environmental debate.” (10 April 2015 - ABC 730 report)

Given the concerns with the focus and scope of the inquiry that have been raised publicly across a wide range of civil society groups we hope that the committee will make a fair and balanced finding. We make particular note of early evidence presented by the Federal Environment Department and the Australian Charities and Not for Profits Commission that indicated neither held substantial concerns with the current operation of the Register of Environmental Organisations. (16 June 2015, Hansard)

2.1.1 Definition of an environmental organisation

In our view, the Committee’s Terms of Reference, and its specific focus on inquiring into the effectiveness of the Register of Environmental Organisations “in supporting communities to take practical action to improve the environment”, is attempting to create a spurious distinction between ‘practical’ environmental protection activities and advocacy.

The *Income Tax Assessment Act 1997* defines an environmental organisation as an organisation whose 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*

(ITAA 1997, S. 30-265)

The Act makes no specific mention of a requirement for the delivery of ‘on-ground’ or ‘practical’ activities in order to meet the definition of an environmental organisation. Nor does the Charities Act 2013, or the Register of Environmental Organisations Guidelines from the Department of the Environment.

As the Committee would be aware, the High Court of Australia decision in the 2010 *Aid/Watch* case found that advocacy activities aimed at policy or legislative change make a positive contribution to public welfare and do not exclude an organisation from being classified as a charity.

In January 2015 in a recommendation for the legal sector that could be equally applied to the environmental sector, the Productivity Commission made suggestions that strategic advocacy and law reform work was an effective use of resources as it addressed systemic problems, rather than working on a case by case basis.²

In reality, environmental outcomes are significantly determined by government policy, program and resource-allocation decisions. Local 'practical' action such as tree-planting, while valuable, can do little to affect or reverse environmental decline unless it operates within a supportive policy context at a broader scale. At best, 'on-ground environmental works' can only address the symptoms of environmental degradation, while peaceful community protest, advocacy and campaigning all seek to address the underlying causes. Furthermore, history has shown that in the vast majority of cases, broader policy support for environmental action in Australia has only come about through community advocacy pushing governments to act.

CounterAct considers the current definition in the Act does not present any barrier to environmental organisations engaging in advocacy and campaigning. In fact, given the High Court's decision referred to above, we believe there is scope to broaden the definition to explicitly include advocacy and campaigning as legitimate environmental activities.

2.1.2 Requirements to be met by organisations to be listed on the Register and maintain listing

We support no change to the current operation of the register as per the recommendations in the submission by Friends of the Earth Australia and elsewhere in this submission respond to critiques already on record which have been made as arguments by committee members to restrict the requirements.

We also note that evidence so far received by the committee from the Federal Environment Department and the Australians Charity and Not for Profit Commission relevant government departments is that they have few concerns about the current operation of groups listed on the register.

2.1.3 Activities undertaken by organisations listed on the Register

As Committee members will see from the detailed description of our work below, CounterAct's activities are focused primarily on supporting members of the community to develop experience

² <http://www.probonoaustralia.com.au/news/2015/01/justice-gap-growing-productivity-commission-report>

and skills which improve the effectiveness of their environment work, as well as develop an understanding of advocacy needed to more effectively implement systemic change.

We are of the strong view that these activities are consistent with the ITAA 1997 and the Charities Act, and are consistent with any strategic approach to delivering environmental outcomes in the public interest.

The value of taking a strategic approach to environmental protection has been highlighted by organisations such as Philanthropy Australia and the worldwide trend towards ‘systems change philanthropy’, which involves funding a diverse range of activities which address the underlying causes of environmental degradation, not simply the symptoms.

3. About CounterAct

CounterAct is a small, young organisation. We were officially established in 2012 as an affiliate of Friends of the Earth Australia. (FoEA)

CounterAct has one part time staff member, and a number of volunteers and collaborators. We have a small email list of 1200 supporters who we regularly update with resources, case studies and training opportunities.

We work closely with Friends of the Earth and a number of sub-groups or collectives in the broader organisation, as characterised by:

- Contributing to public awareness through FoE publications
- Collaborating on a range of projects with collectives working on education around nuclear waste and uranium mining, and in promotion of clean energy and preventing climate change
- Contributing to day to day campaign work by working part time from FoE Melbourne, attending monthly meetings and maintaining regular contact with collectives in Melbourne and around the country
- Providing training, mentoring and resources to FoE volunteers.

A key collaboration has been our coordination and facilitation of “The Change Course” in 2014-2015, a now annual event that provides low cost advocacy, education and practical campaigning skills to up to 22 community change-makers at a time. Participants have included people who are promoting further bicycle use, encouraging the use of cloth nappies, working to save old growth trees, or promoting activities that mitigate climate change.

These people have developed diverse experience enabling them to use their volunteer skills more effectively in on-ground environment work, as well as develop an understanding of advocacy needed to more effectively implement systemic change.

We also provide a wide range of training to organisations across the country, and develop written resources on our website and in 2015 launched an educational guide for community activists in Victoria. This work was done in collaboration with Environmental Justice Australia and supported with a grant from the Victorian Law Society, acknowledging the public interest value of our work in providing legal and educational resources.

We operate consistent with the primary purpose of FoEA (Friends of the Earth Australia) as defined in our constitution as:

- (a) The conservation, restoration, and sustainable use of the world's resources
- (b) To stimulate a movement of social change towards an ecologically stable and self-managed society;
- (c) To preserve the natural environment in Australia;
- (d) To promote public awareness of environmental issues in Australia through public awareness activities and the production of leaflets, booklets, films and other educational materials;
- (e) To assist other people and organisations interested in these objectives to carry out their tasks through the maintenance of resource centre's, newsletters, magazines and communication with like-minded national and international bodies.

FoEA run a number of national campaigns and projects in support of these organisational objectives, as well as providing support to a wide range of community groups working at a local level in metropolitan, regional and country areas around Australia.

FoEA carries out public interest research, environmental education and outreach, as well as advocacy and active engagement in public debate on matters of national importance. The organisation also provides a wide range of practical advice opportunities for Australians to reduce their impact on the natural environment and live ecologically sustainable lives.

CounterAct relies on voluntary contributions of money, time, skills and resources from a network of city and country Australians who share our vision for a just and sustainable Australia. Our tax deductible status via FoEA is vital to our work, with our comparatively small income being responsible for catalysing significant outcomes in a range of communities who are working to protect the environment. Elsewhere in this submission we have detailed a key collaboration with Friends of the Earth on protecting groundwater and providing community education to farmers to protect their properties from unconventional gas.

Concerns have been raised by committee members about our status as a separate organisation. In fact we are deeply integrated in the work of FoEA as described above. As per

the FoEA constitution we have our own priorities and focus, as do other affiliates and collectives, as FoEA operates as a non-hierarchical structure. However, we all support each other, collaborate and work towards the primary purpose as listed in the constitution and in compliance with the requirements of the register.

In 2014-15 FoEA cooperated with investigations by both the Australian Tax Office and Federal environment department, which included reference to affiliate groups. Neither investigation found fault with current operations. Similarly a routine ATO audit in 2012 found no issue.³

4. Civil disobedience in the public interest

One of the instigators of this inquiry was the particular interest shown by members of the committee in “illegal activities”. CounterAct does not resile from the fact that we believe peaceful, civil disobedience plays an important role in our society. It is part of a long tradition of legitimate community protest and there are many examples of civil disobedience activities within broader campaigns which have led to legislated outcomes, such as securing national parks.

Whilst we can understand a level of concern from the committee that laws not be broken, and are confident that our work is fully compliant with the requirements of the ITAA 1997 and Charities Act and guidelines for the Register of Environmental Organisations, we seek to provide some larger context for the necessity of protest and civil disobedience to democratic function, and for the benefit of society and the environment.

Civil disobedience historically has been characterised by demonstrating the highest respect for the law. Whilst the author does not seek in any way to compare our work to that of Gandhi and Martin Luther King, there are many millions of people that have drawn inspiration from their words, leadership and bravery in advocating for necessary social change.

"One who breaks an unjust law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law." ~Martin Luther King

"An unjust law is itself a species of violence. Arrest for its breach is more so." Mahatma Gandhi

People who participate in civil disobedience are making a moral and ethical choice to accept the consequences of the legal system.

Their choice to do so is entirely personal, and to infer that any environmental organisation in Australia can compel people to commit acts of civil disobedience is to take away entirely their sense of personal agency. Just as inferring that people are not educated enough to make an

³ <http://www.abc.net.au/news/2015-04-29/friends-of-the-earth-donation-gets-ato-clearance/6431500>

informed choice about who they donate hard-earned money to, anyone who donates to an environmental organisation in Australia tends to be well aware of their activity.

In recent years, there has been a substantial shift in Australia in the demographic of people who are engaging in acts of civil disobedience in support of environmental, climate and social justice outcomes.

In June 2015 a group of young farmers indicated their willingness to commit acts of civil disobedience and peaceful protest to demonstrate their level of concern at the proposed Shenhua coal mine which is to be situated in one of the most fertile regions in the country, the food bowl of the Liverpool plains.⁴

NSW farmers are urging all Australians to sign onto a public letter condemning the project⁵, and have publicly acknowledged the growing threat from climate change to their livelihoods in a significant motion at their July conference.⁶ The local member, high profile National MP and Minister for Agriculture, Barnaby Joyce has stated on public record that as Agriculture Minister he was opposed to the mine in the food bowl region *“This is a ridiculous place for a mine.”*⁷

In this context it is reasonable to understand farmers’ concern at the political process having failed the interests of Australians. They argue that a foreign-owned company is receiving preferential treatment and a destructive project is being allowed to proceed, despite substantial community opposition. As with most cases of nonviolent direct action, they are considering its use as an option of last resort, having witnessed all other avenues of recourse fail them, and with the Minister responsible publicly admitting he was unable to influence the decision.

4.1 Demonstrating moral leadership

The Australian Religious Response to Climate Change (ARRCC)⁸ is one of a number of faith organisations who have participated in community protest against the expansion of the fossil fuel industry, which is destroying irreplaceable ecosystems and contributing to air, water and carbon pollution.

Alongside climate scientists, lawyers, academics and students they represent a broad cross section of society who are taking an ethical stance on climate change and the expansion of the fossil fuel industry by participating in nonviolent direct action.

⁴ <http://www.abc.net.au/news/2015-07-13/liverpool-plains-farmers-vow-legal-action-to-stop-shenhua-mine/6616940>

⁵ http://www.nswfarmers.org.au/_data/assets/pdf_file/0017/44117/069a.mr.15.pdf

⁶ http://www.nswfarmers.org.au/_data/assets/pdf_file/0014/44105/068.mr.15.pdf

⁷ ABC, 7.30 report, 13th July 2015

⁸ <http://www.smh.com.au/comment/faith-and-science-combine-as-religious-leaders-join-fight-for-maules-creek-20140312-34m6h.html#ixzz2vjLmVJ6b>

Thea Ormerod from ARRCC stated *“This is a well-worn path for people of faith.... The movement to wind down coal-mining in Australia may be counter-cultural but it is the truly conservative one. Its aim is to keep the Earth’s ecosystems more or less intact for those who suffer the impact of climate change in developing countries, for our own young people here and for future generations. Not a radical position at all.”* (Sydney Morning Herald, 12 March 2014)

*“We have broken the law only because it seems to be the only option left when so many other options have failed. It seems that regardless of the science, regardless of the good work of many good people to care for Creation for our children and grandchildren, our governments refuse to act to protect the common good.”*⁹ (Bible Society, 6 August 2014)

Rev Brentnall, *“We are all Christians concerned about the harm coal and gas mining is doing to Creation and to other values we hold as sacred. We believe this so strongly that we are prepared to put ourselves in the way of the work and risk arrest.”*

Pastor Carroll said he was getting involved in the protest because it was a matter of intergenerational justice, *“Will we not be judged harshly by future generations if we leave them infertile soil, poisoned water and irreversible destruction to our planet?”*¹⁰

Significant moral leadership on the issue of climate change has recently been demonstrated by Pope Francis¹¹

And while the Pope calls for practical steps like recycling and improving public transportation, he said structural injustices require more political will and sacrifices than most societies seem willing to bear. Nothing short of a “bold cultural revolution” could save humanity from spiraling into self-destruction, the Pope warned.

Our care for the environment is intimately connected to our care for each other, he argues, and we are failing miserably at both.

*“We are not faced with two separate crises, one environmental and the other social,” Francis writes, “but rather one complex crisis which is both social and environmental.”*¹²

5. Role of peaceful community protest in upholding the law

In addition to its role in advocating for necessary social change, peaceful community protest also has a vital role in upholding the law on behalf of all Australians. The examples below are

⁹ <http://www.biblesociety.org.au/news/refusing-profit-destroying-earth#sthash.HfRvrXsB.dpuf>

¹⁰ <http://www.sbs.com.au/news/article/2014/06/26/church-leaders-chained-cross-mine>

¹¹ http://i2.cdn.turner.com/cnn/2015/images/06/18/papa-francesco_20150524_enciclica-laudato-si_en.pdf

¹² <http://edition.cnn.com/2015/06/18/world/pope-francis-climate-technology-encyclical/>

just a handful of many, where citizen action has not only highlighted, but also intervened in cases of companies and government breaking the law.

Citizen science and nonviolent protest, in combination with advocacy and legal recourse has often been used to intervene and challenge companies who were subsequently found to be acting unlawfully.

In a number of recorded instances of mining and forestry corporations or government agencies breaking the law, they have received sanctions that are insignificant compared to the damage caused and their vast resources. In contrast nonviolent citizen action can be treated quite harshly.

In numerous situations, the hard work of volunteers in defending and protecting valuable assets (such as ecologically significant forests) through nonviolent protest, community surveys and citizen science, has allowed space for other legal and advocacy interventions. These subsequent interventions have then resulted in legislative outcomes – national parks and indigenous protected areas – that have allowed our forests to be used by all of the public. In the longer term, the wider public benefits of jobs, carbon sequestration and securing habitat and ecosystems have far outweighed benefits delivered by the short term, tax-payer subsidised and economically unviable forestry industry.

CounterAct is not seeking to argue that this work should necessarily be fully funded by tax deductible donations, and in many cases it is not. It is fully coordinated and managed by dedicated volunteers.

Instead, we are making the case that this work is done in the public interest, and that its value is often vindicated later through public support for the protection of subsequently protected areas, and where companies or government have been found through legal proceedings to be acting unlawfully. Numerous areas that have been contested with nonviolent protest are now secured in perpetuity in national parks for all Australians to enjoy.

5.1 Areas that have been secured through advocacy and legislative processes following nonviolent community protest

In some instances, environmental issues have been so widely supported by the public that it has resulted in a change of government.

It is broadly acknowledged that the election of Geoff Gallop in Western Australia in 2001 was due in part to a massive public campaign to secure the forests of the South West. Most of the areas that were contested with nonviolent protest were subsequently delivered through pre-election commitments as¹³ lasting legacy of protected areas.

¹³ <http://wilderness.org.au/premiers-green-decisions-milestones-wa-conservation>

More recently in Queensland the surprise election of an ALP government with an unprecedented swing was in part due to strong public support for the Great Barrier Reef. The Minister for the Reef, Stephen Miles, has since acknowledged the substantial efforts of the environmental sector in pushing both the federal and state government to act for the protection of the reef.¹⁴

Environment East Gippsland

In 2010 Environment East Gippsland won a landmark case – the “Brown Mountain” decision – which found the government had acted unlawfully. As a consequence, the government was required to commit to a series of surveys as well as allocating special conservation zones for two species of gliders and the potoroo.¹⁵

“It really is a very strong judgment for us. If we had not risked everything in defence of our forests, VicForests would have logged Brown Mountain’s old growth forests by now. The logging would have been illegal, and it would have killed a range of protected wildlife that they denied was there,” (Jill Redwood, September 2010)¹⁶

Environment East Gippsland have run four successful legal cases¹⁷ challenging government and VicForests. Most recently in July 2015 a case was won which secured over 2000 hectares of habitat for three species of owls.¹⁸

This substantial public interest work has been vital in holding government agencies accountable for breaking the law and has been complemented by nonviolent community protest in many instances which has been integral to the outcomes.

Cobb Hill, Victoria

In 2012, VicForests illegally logged Cobb Hill, National Rainforest Site of Significance. Goongerah Environment Centre (GECO) discovered this during a community audit and citizen science program, and took nonviolent direct action to protect the rainforest, while Environment East Gippsland and their lawyers secured a Supreme Court injunction to stop the illegal logging.

After 10 days of peaceful civil disobedience an injunction was secured and logging stopped. An out-of-court settlement was reached and VicForests agreed not to schedule logging in National Rainforest Sites of Significance. In this instance, civil disobedience was integral to ensuring the

¹⁴ <http://linkis.com/www.theguardian.com/3Q6EK>

¹⁵ <http://www.eastgippsland.net.au/news/brown-mountain>

¹⁶ <http://www.eastgippsland.net.au/news/brown-mountain-final-court-orders>

¹⁷ <http://www.theage.com.au/victoria/forests-agency-sued-for-logging-20120318-1vdlw.html>

¹⁸ <http://www.abc.net.au/news/2015-07-18/environment-group-wins-legal-battle-to-protect-owl-habitat/6629644>

law was upheld, allowing for delay in the destruction of an irreplaceable asset whilst court processes were undertaken to eventually secure the protection of the forest.

Chaleundi Forest, NSW

The community campaign for Chaleundi Forest in New South Wales demonstrates another example of a variety of tactics which finally resulted in the establishment of a national park. Nonviolent protest in 1991 was important in highlighting the community commitment to defending this forest and intervening in operations. The Sydney Morning Herald reported at the time that "*opponents of logging operations in the Chaelundi State Forest dug in for a long vigil against Forestry Commission plans to cut access roads and fell timber in the 560 hectares of old-growth area in the State's north-east.*"¹⁹

In addition legal action²⁰ was taken in the NSW Land and Environment Court, and subsequently further action taken in the Federal court.²¹

Referred to as 'the North Coast woodchip case', these proceedings challenged the decision of the then Federal Labor Minister David Beddall to issue an export licence for woodchips from the forests in NE NSW. The decision by Sackville J established a new test of 'standing' for parties wishing to enforce environmental protection laws.

In January 1997, the Chaelundi National Park was created covering 19,174 hectares, vindicating the protest action taken.

Nonviolent protest combined with advocacy work, again led to a legislative outcome.

A sample comment on the SMH photo gallery reads: "*Well-meaning young people trying to save the forest - rugged up & dressed warm as some slept in trees. A lot of the forest you have in place today is thanks to these determined Aussies.*"

Unconventional gas

High levels of community concern about unconventional gas across the country have led to unprecedented community organising and campaigning across the country.

CounterAct has been working in collaboration with Friends of the Earth to support farmers in Victoria who have been organising in response to the risk to their farmland. The Victorian Farmers Federation recently passed a motion that supported an extension to the Victorian government's moratorium on exploration and exploitation of unconventional gas resources.²²

¹⁹ Sydney Morning Herald ([Photo Archive](#))

²⁰ <https://www.greenleft.org.au/node/480>

²¹ <http://www.austlii.edu.au/au/cases/cth/FCA/1994/1556.html>

²² <http://www.abc.net.au/news/2015-06-29/vff-pushes-for-extension-to-onshore-gas-mining-moratorium/6580996>

With over 60 communities across Victoria now declaring themselves “gasfield free” it is clear that the social license for unconventional gas is virtually nonexistent.

Concerns about the environmental risks posed by this industry are many and varied. These include concerns about reported health risks air quality being compromised, the contamination of groundwater and surface water resources and consequent risks to agricultural productivity, as well as the broad-scale industrialisation of prime agricultural land.

CounterAct considers that its work in support of farmers and regional communities, training them in advocacy and building their community organising skills, as well as preparing them with skills for peaceful, safe action, should civil disobedience be required, has played a role in securing environmental outcomes – namely a moratorium on unconventional gas in Victoria.

All over the country this is an issue of grave concern, with many rural locals and farmers participating in advocacy and protest, contrasted with companies exhibiting a poor track record of leaks and cover ups. For example:

- **Linc Energy** been accused of failing to report dangerous unconventional gas leaks at Chinchilla in Queensland and is facing criminal charges over matters that (according to ABC news) relate to their environmental management. A state government investigation is being undertaken after tip-offs from former workers that include a fire that required evacuation in 2007, many years of persistent toxic gas leaks, and an alleged attempt by management to hide problems at the site from government officials in 2012.²³
- **Santos Limited** was fined \$1500 in March 2014 by the Environment Protection Agency after a leak which resulted in increased levels of lead, aluminium, arsenic, barium, boron and nickel being found in the aquifer, as well as uranium at 20 times more than the safe drinking water guideline.²⁴
- **Eastern star Gas** was fined \$3000 for discharging polluted water into Bohena Creek in the Pilliga, in North West NSW.²⁵

In contrast a local Armidale man, Ken Aberdeen, who was part of a peaceful protest in the same region was fined \$6000. This demonstrates a significant contrast in the penalties applied to serious breaches of groundwater integrity by companies worth millions with the peaceful acts of a volunteer citizen acting in defence of farmland and forest.

There have been numerous other instances of other mining companies breaking laws that have been highlighted by community protest or advocacy, such as the many instances at Ranger

²³ <http://www.abc.net.au/news/2015-03-17/linc-energy-accuse-failing-report-series-of-dangerous-leaks/6323850>

²⁴ <http://www.smh.com.au/environment/santos-coal-seam-gas-project-contaminates-aquifer-20140307-34csb.html>

²⁵ <http://www.epa.nsw.gov.au/epamedia/epamedia12070601.htm>

uranium mine in the NT²⁶, and a wide range across the country, including most recently the Lithgow coal mine in July 2015 in NSW which is currently being investigated by the EPA.²⁷

Barmah Millewa - Red gum forests

The red gum forests of NSW and Victoria and the national parks and Indigenous protected areas that Friends of the Earth played a leading role in securing for all Australians, are an excellent example of how a diverse range of approaches has secured an incredibly vital outcome for the local Yorta Yorta people and the environment.

Whilst nonviolent protest played a role in this campaign, it was combined with significant lobbying, and advocacy and diverse campaigning and collaboration work, securing over 200,000 hectares of Red Gum Protected Areas in the NSW Riverina to be managed by traditional custodians and a ban on logging and cattle grazing.

Reichstein Foundation (submission 473) highlighted it as a significant environmental outcome they had contributed to. In an important acknowledgement of the work of FoE that seeks to combine environmental with social justice outcomes - they specifically referenced the significant role of the Yorta Yorta people in the management and care of the area, which was one of their funding objectives.

This effort has been recognized by Philanthropy Australia and ProBono Australia as one of Australia's Top 50 Philanthropic Gifts.²⁸

7. The risk to philanthropy as a critical source of environmental funding

We note that there have been significant submissions already made by Philanthropy Australia, the national peak body, as well as numerous funds and trusts expressing serious concern at the impact of any changes to the register of environmental organisations.

Philanthropy Australia estimates that around \$1 billion from foundations, and a further \$4 billion from households is donated to philanthropic causes in Australia each year.²⁹ This funding is a critical complement to government funding across a wide range of policy areas including education, health, arts and culture and the environment.

²⁶

<http://www.ntnews.com.au/news/northern-territory/contaminated-slurry-spilled-at-ranger-uranium-mine/story-fnk0b1zt-1226777753784>

²⁷ <http://www.abc.net.au/news/2015-07-03/coal-company-could-face-legal-action-over-lithgow-pollution/6594256>

²⁸

<http://web.archive.org/web/20110310055918/http://www.foe.org.au/resources/chain-reaction/editions/chain-reaction-109/a-stunning-victory-2212-nsw-parks-fill-the-red-gum-conservation-gap>

²⁹ <http://www.philanthropy.org.au/tools-resources/fast-facts-and-stats/>

However, “The Giving Australia: research on Philanthropy in Australia” report in 2005 noted that environment and animal welfare groups received less than 5% of this total. Whilst this might have changed slightly over the last decade, (evidence to this committee indicated the proportion of funding received by the environment sector could be as low as 2%), it demonstrates that there are many other sectors that are not being subject to the same level of scrutiny as environmental organisations.

Philanthropy Australia has raised concerns that “any narrowing of the definition of ‘environmental organisation’ under the *Income Tax Assessment Act 1997*, including under Subdivision 30- E, or the introduction of new restrictions which inhibit the ability of environmental charities on the Register to undertake advocacy....would increase the ‘red tape’ imposed on philanthropy”, and hence “introduce a new barrier to giving”.³⁰

Philanthropy Australia also notes the worldwide growth of ‘systems change philanthropy’, which involves addressing the causes and not just the symptoms of social and environmental challenges. This can involve funding research, advocacy and lobbying of policy makers and political representatives.

In order for Australia to benefit from this growing worldwide trend, the philanthropic sector and the charities it supports need to “have at their disposal a wide variety of practical approaches which they can adopt in order to protect and enhance our natural environment”, including the ability to undertake advocacy.³¹

Consequently, the philanthropic sector as represented by the peak organisation Philanthropy Australia, has stated very clearly that it sees no justification for and “would not support any narrowing of the definition of ‘environmental organisation’”.

The NSW Minerals Council has claimed that the tax-deductible status of key organisations in the environmental sector leads to a loss to the taxpayer of \$18 million per year. This represents only around 0.005 percent of Commonwealth Government revenue, and is very likely an over-estimation, based as it is on an estimate of total revenue of which donations would represent only a part.³²

In contrast, deductions on the mining industry’s lobbying expenditure have reduced company tax by \$20 million per year over the last five years. And unlike the probable over-estimation of revenue loss from environmental tax deductions, this figure represents just the tip of the iceberg, as the mining industry also spends millions on third-party lobbying firms and in-house

³⁰ Philanthropy Australia (2015), Submission to the Inquiry into the Register of Environmental Organisations at: <http://www.philanthropy.org.au/>

³¹ Philanthropy Australia (2015), Submission to the Inquiry into the Register of Environmental Organisations at: <http://www.philanthropy.org.au/>

³² Campbell, R. et al. (2015) *Powers of deduction: Tax deductions, environmental organisations and the mining industry*, The Australia Institute, June 2015

lobbyists not captured by this analysis.³³ The mining industry also receives numerous other tax concessions from government - with subsidies for the fossil fuel sector alone estimated at between \$8 billion and \$12 billion annually.³⁴

In addition to financial contributions, Australians also donate millions of volunteer hours to community organisations each year. In 2010, 36.2 percent (or more than 6 million) Australians participated in formal volunteering, of which 7 percent volunteered in the environmental sector. This volunteer work has been estimated as contributing \$25.4 billion to the Australian economy.

³⁵

A submission made by a team of economists (Submission 267) noted the role for volunteerism and the case for tax deductions was examined over 2012 and 2013 by a working group established within Treasury, the Not for Profit Sector Tax Concession Working Group. Significantly, the Group recommended extending Deductible Gift Recipient status to all charities registered with the Australian Charities and Not-for-profits Commission.³⁶

Both financial donations and volunteer contributions complement government funding and hence the burden on the public purse. Any changes to the definition of environmental organization that limits access to DGR status and hence the financial viability of the organisations which rely on donations and volunteers to carry out their work, will therefore have the effect of increasing pressure on scarce public funds.

8. Summary

From the Franklin river, to Kakadu and the battle for Jabiluka, to forest campaigns across the country, and the preservation of the stunning and culturally significant Kimberley region around James Price Point (Walmadan) as well as numerous other outcomes, cited in thousands of submissions, there is much to acknowledge the environment sector for.

We hope that the committee will seriously consider the advice of General Counsel, Department of the Environment, Mr Writer who indicates that there has never been any de-registration of environmental groups due to complaints registered, and also stated “Protesting, by itself, is not illegal conduct... I think, for example, protesting could be considered to be a form of education.”

³³ Campbell, R. et al. (2015) *Powers of deduction: Tax deductions, environmental organisations and the mining industry*, The Australia Institute, June 2015

³⁴ http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2011-2012/FossilFuelTaxes

³⁵ Volunteering Australia,

<http://www.volunteeringaustralia.org/wp-content/uploads/VA-Key-statistics-about-Australian-volunteering-16-April-20151.pdf>

³⁶ <http://www.ourcommunity.com.au/files/GivingAustraliaSummary.pdf>

Mr Baird from the Department of Environment similarly advised “There have been no environmental organisations at this stage that have been revoked”... and “There is no pattern of bad conduct of charities, particularly in the environmental field.”

Susan Pascoe, Commissioner, Australian Charities and Not-for-Profits Commission further noted under questioning that the public was right to have confidence in the sector, “So we are always trying to get the balance, to say that, overwhelmingly, charities are doing the right thing and are competent and capable.” (24 June 2015, Hansard)

Bearing this in mind, the overwhelming support demonstrated for the sector by more than 9000 submissions, and the incredible contribution the environment sector has made to the protection and preservation of our precious natural resources, we urge the committee to not put any further restrictions on environmental organisations which could hamper this vital work.

Yours sincerely,

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CounterAct