

Committee Secretary
House of Representatives Standing Committee on the Environment
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20 May 2015

Dear Sir/Madam,

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

Environment Victoria welcomes the opportunity to make a submission to the Standing Committee (Committee) on the Environment.

This submission comprises the following sections:

- 1. About Environment Victoria**
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1. About Environment Victoria

Environment Victoria is one of Australia's leading independent environment groups. With more than 30 member groups across the state and more than 65,000 individual supporters, we've been representing Victorian communities on environmental matters and achieving conservation outcomes for 46 years.

Environment Victoria was founded in 1969 by individuals and small local conservation groups who were working to protect the Little Desert area of western Victoria. These groups identified an important gap in the environment movement, which was the lack of a voice operating state-wide

and focusing on the decisions being made by the state government (and other governments or decision-makers) which had environmental implications. These individuals and groups founded the Conservation Council of Victoria, which later changed its name to Environment Victoria. They were successful in creating the Little Desert National Park, a 132,000-hectare park with outstanding conservation values which has become one of the major tourist attractions and drivers of economic activity in the Wimmera-Mallee.

Environment Victoria has been listed on the Register of Environmental Organisations (the Register) since 1993 and therefore has a direct interest in this inquiry.

Environment Victoria is also registered with the Australian Charities and Not-for-profits Commission (ACNC) and is therefore subject to the *Charities Act 2013* (Cth) (the Charities Act).

To fulfil its charitable purpose, Environment Victoria:

- researches solutions to environmental problems
- promotes sustainable living
- assists communities in reducing their impact on the environment (which in many cases also reduces their cost of living)
- develops partnerships with other sectors to address environmental challenges
- advocates environmental solutions to governments and other decision-makers.

We have a long track record of delivering outcomes for the environment. Some of our recent achievements are outlined in section 2.1.3 of this submission.

We work with the community, business and government and are strictly non-partisan politically. We have worked collaboratively and productively with both Coalition and Labor governments at the state and federal level for environmental outcomes. We have also at times disagreed with the environmental policy approaches of both Coalition and Labor governments and expressed our views to our supporters and publicly. The right to debate and challenge public decision-making is critical in a well-functioning liberal democracy like Australia.

In 2010 Environment Victoria was awarded the Eureka Prize for Advancement of Climate Change Knowledge for our pioneering behaviour change sustainability programs with multicultural communities.

In 2013-14 approximately 42 per cent of Environment Victoria's funding came from tax-deductible donations made by the public.

In 2014-15 this proportion will be higher following the federal government's decision to scrap the Grants to Voluntary Environment, Sustainability and Heritage Organisations (GVESHO) program which had been operating since 1973, a grant we had received for many decades. The fact that Victorians have increased their donations to Environment Victoria in the wake of federal government funding cuts highlights the high level of support, connection and relevance we have in the community.

For many of our donors, tax deductibility is important, particularly given that most of our donors donate to multiple charities and causes. If tax deductibility were removed for environment groups, it is highly likely that many of our donors would shift their donations to other charities – for instance, to international development charities that are also working on environmental issues like climate

change. This would have the discriminatory effect of disadvantaging charities that focus on domestic environmental issues.

Without being listed on the Register and having tax deductibility of donations, Environment Victoria would most likely be unable to continue its activities, which are clearly valued by tens of thousands of Victorians. Effectively we would likely cease to exist as a voice for the environment.

2. Introductory comments on the Committee's terms of reference

Environment Victoria welcomes appropriate scrutiny of the operations of the Register. On face value the terms of reference for the Committee's inquiry appear largely reasonable, though we are concerned about an apparent attempt to frame an argument that some groups are undertaking 'legitimate' on-ground activities while others are undertaking 'illegitimate' advocacy activities. This concern is heightened by a media campaign that has been run by some members of the Committee who appear to be attempting to extend the focus of the inquiry.

We would remind Committee members that the High Court's decision in *Aid/Watch Incorporated v Commissioner of Taxation* (2010) found that activities by which entities 'agitate' for legislative or policy change are consistent with charitable status and support the operation of the Constitution of the Commonwealth of Australia. Following the *Aid/Watch* decision a definition of charity that permits advocacy activities was legislated in the Charities Act. We are therefore perplexed by the Committee's focus on 'on-ground environmental works' and fail to understand why a single operating mode of environmental groups – namely 'practical' work – has been elevated above all others.

Environment Victoria believes that the Committee is creating a false dichotomy between 'on-ground environmental works' and advocacy efforts. The reality is that local volunteer tree-planting activities, for example, need to be supported and complemented by government policy, programs and funding. Furthermore, community pressure or advocacy brought to bear by local volunteers and environment groups has contributed greatly to better government funding for on-ground environmental works.

Environment Victoria works both directly at the 'hands on' level, and at the policy level. For instance the 'Future Powered Families' energy efficiency program we are currently delivering has so far undertaken 1206 energy efficiency assessments of low income households and trained 141 ethnically and culturally diverse Victorians to undertake these assessments. Simultaneously we are providing detailed input to the Victorian government about their current review of the Victorian Energy Efficiency Target which will provide greater policy incentives to undertake energy efficiency measures such as replacing inefficient light globes and showerheads or insulating ceiling lofts. Good environmental outcomes are generally a combination of skilled on-ground delivery properly supported by policy that has been developed in collaboration with industry and NGO stakeholders such as Environment Victoria.

2.1 Specific comments on the Committee's terms of reference

Environment Victoria makes the following specific comments on the Committee's terms of reference:

The House of Representatives Standing Committee on the Environment will inquire into and report on the administration and transparency of the Register of Environmental Organisations (the Register) and its effectiveness in supporting communities to take practical action to improve the environment.



Environment Victoria is largely satisfied with the current administration of the Register, and believes current reporting requirements are adequate and reasonable. Environment Victoria does not understand references to the transparency of the Register. The Register is publicly available for download at <http://www.environment.gov.au/system/files/pages/1fbfb20f-5749-4468-b008-feaf1804e969/files/register-environmental-organisations-2015.pdf> so there does not appear to be any great secrecy about which organisations have been listed. The Committee may be alluding to a need for greater transparency about the process for listing, however this process appears to be explained in a straightforward manner in the *Income Tax Assessment Act 1997* (the ITAA 1997).

Environment Victoria does not understand why the government is only proposing an inquiry into the Register of Environment Organisations, and not, for example also the Register of Harm Prevention Charities, or the Register of Cultural Organisations which are also covered by the ITAA 1997. This raises concerns for us that the inquiry may be politically motivated given that it appears to single out environment organisations for close scrutiny.

2.1.1 Definition of environmental organisation

The definition of an environmental organisation appears straightforward in the ITAA 1997. Importantly the Act states that to satisfy the definition of being an environmental organisation, a group's 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.*

(Income Tax Assessment Act 1997 (Cth) s 30-265)

Note that there is no mention of 'on-ground' activities in the ITAA 1997, and there is no attempt to prescribe the activities that deliver on the principal purpose. While in our view this definition is adequate, and does appear to capture advocacy activities, there is scope to broaden it to more explicitly include advocacy and campaigning. Any attempt to narrow the definition with the purpose of restricting advocacy activities would discriminate against environmental organisations as compared to other charities.

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

In our experience the requirements of the Act are reasonable and are being upheld by Environment Victoria. However there is a strong case for the administration of the Register to be transferred to the Australian Charities and Not-for-profits Commission (ACNC) to reduce unnecessary red tape and administrative burden. It is inefficient and makes little sense that charities need to apply for charitable status from the ACNC and then apply to the Department for listing on the Register (and await approval from two departments and two ministers) when the tests for charitable status and the Register are virtually identical. Furthermore, administration of the Register by the ACNC would ensure compliance with the Register could not be influenced by political factors, but would be subject to independent and objective assessment.

2.1.3 Activities undertaken by organisations listed on the Register

Environment Victoria summarises its activities each year in an extensive annual report which is publicly available. The *2013-14 Annual Report*, for example, is a 45-page document which provides a detailed summary of our activities and is available at <http://environmentvictoria.org.au/content/environment-victoria-annual-report-2013-2014>. A link to the annual report is sent to all members every year. The annual report includes our audited financial statements and details of the way in which donations received from the public are spent.

As Committee members will see if they read the annual report, our activities are a mix of so-called 'on-ground' environmental works, public interest research, engagement with government policy-making processes and environmental advocacy. Our view is that all of these forms of activity are important, and that all of them are consistent with the ITAA 1997 and the Charities Act. Any attempt to limit any of these forms of activity would be inconsistent with these Acts and inconsistent with the High Court's decision in the *Aid/Watch* case.

Environment Victoria is undertaking work that is delivering significant environmental benefits and is in the public interest. In the past 18 months alone some of the projects that Environment Victoria has delivered include:

- securing a Commission of Inquiry into the Hazelwood mine fire and presenting detailed evidence to the commission about rehabilitation options for the mine site
- undertaking detailed research into job creation associated with mine rehabilitation
- establishing the Future Economy Group, an alliance of business leaders who are working to ensure that Victoria's natural capital is recognised and accounted for
- working with the Future Economy Group to release two ground-breaking reports into the connection between Victoria's natural capital and the performance of the Victorian economy
- working with the former Coalition state government in Victoria to ensure delivery of its water plan for Melbourne which increased use of stormwater and recycled water
- developing an online atlas 'Lifeblood' which explores the health of every river system in Victoria and the policy actions that are needed to restore our rivers to health
- achieving extra government support for farmers who wish to protect riverbanks by fencing off riparian areas
- working with Landcare groups and farmers to highlight the great benefits of fencing off riverbanks and restoring natural vegetation
- assisting over 1500 new Victorian parents to save energy in their homes through our Future Powered Families program
- running four successful energy and sustainability programs with participants from low-income and non-English-speaking backgrounds
- saving the Victorian Energy Efficiency Target through advocacy with the energy efficiency industry which highlighted that the target had been lowering Victorians' energy bills
- working with the Murray Darling Basin Authority to ensure full and on-time delivery of the Murray Darling Basin Plan
- working with the social, community and consumer sectors to develop an energy efficiency policy for Victoria that would improve the standard of Victorian homes
- leading the 'One Planet Carlton' program, a multi-agency project working to engage the entire suburb of Carlton on sustainability
- working with public housing residents in North Melbourne to establish recycling services in partnership with the City of Melbourne



- highlighting the significant financial savings available to the federal government through cutting fossil fuel subsidies, as advocated by organisations like the World Bank and the International Monetary Fund.

All of these projects are aligned with our charitable purpose, all of them delivered significant environmental outcomes in the public interest (or have the capacity to do so if adopted and implemented), and all of them relied on our tax-deductible status that stems from being listed on the Register.

2.1.4 Reporting requirements for organisations

The current requirement that organisations submit their statistical returns is adequate and not overly onerous. Environment Victoria does, however, also undertake a higher level of reporting for our donors and members, providing much more detailed information in our aforementioned annual reports. We do this because we value transparency and respect that our supporters expect us to use their donations to achieve the greatest possible outcomes for the environment. Environment Victoria also completes detailed acquittal reports for large grants received from philanthropic trusts or individual donors to demonstrate to funders how their contributions are being used.

2.1.5 Administration of the Register

As previously stated the current administrative arrangements for the Register are inefficient and involve some duplication of reporting and administration. Environment Victoria's preference would be for the Register to be administered by the ACNC, which is purpose-built for regulating charities, and operates at arms-length from political decision-making.

2.1.6 Compliance arrangements

The ITAA 1997 is clear on what the compliance requirements are for environment organisations listed on the Register. While we are aware that there have been a number of investigations of environment organisations' compliance with the Register's requirements, we are unaware of any of these investigations leading to organisations being removed from the Register, suggesting that compliance is high. We are concerned that the Committee appears to be assuming that there currently are, or have been, breaches of the Act, when to our knowledge past investigations have found the opposite. This particular focus of the Committee further raises our concern that this inquiry may be an attempt to target environment groups that are undertaking perfectly legal activities which the government may not like, rather than any actual non-compliance with the Register.

2.1.7 International arrangements

Examining best practice international taxation arrangements for charities could be a useful exercise; however, such an examination would need to be holistic and explore methods for supporting the charity sector as a whole. Focusing on one unique element of Australia's taxation system (the Register of Environment Organisations) and attempting to make international comparisons is likely to be incomplete and incoherent at best, and misleading at worst.

If the Committee is genuinely interested in exploring best practice regulation of charities, this work should be carried out under the auspices of the ACNC, which may require additional resourcing to undertake this research thoroughly.

3. Conclusion

Environment Victoria undertakes a broad range of activities to advance protection of the natural environment. This includes working directly at the grassroots level delivering environmental programs, partnering with other stakeholders to develop shared environment solutions and advocating both to business and governments for the implementation of policies and activities which improve environmental protection and sustainability.

This work is made possible by donations from the general public. The tax deductibility associated with donations to organisations listed on the Register is essential to their continued success and ability to deliver results that benefit the environment. Any restriction on activities or attempts to remove organisations that are complying with the requirements of being listed on the Register is both undemocratic, and unlawful under current law. Furthermore, any attempt to narrow the definition of an environment organisation to exclude advocacy activities would discriminate and disadvantage environment charities as compared to other charities.

Environment Victoria trusts that the Committee will treat environment charities fairly and in the same way that other charities are being treated. We also hope that this inquiry will assist Committee members to better understand the contribution that Australian environment groups have made to securing environmental outcomes that improve Australians' quality of life and enhance social and economic wellbeing.

Finally, Environment Victoria requests the opportunity to present to the Committee in its public hearings.

This submission was authorised by Mark Wakeham, CEO, Environment Victoria, Level 2, 60 Leicester Street, Carlton, VIC 3053.



Mark Wakeham, CEO, Environment Victoria