



AUSTRALIAN NETWORK for PLANT CONSERVATION INC

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Committee Secretary
House of Representatives Standing Committee on the Environment
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Parliament House
Canberra ACT 2600
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RE: Submission to the Inquiry into the administration and transparency of the Register of Environmental Organisations and its effectiveness in supporting communities to take practical action to improve the environment.

Thank you for the opportunity to make a submission to this Inquiry.

The Australian Network for Plant Conservation Inc. strongly supports the existing arrangements surrounding the Register of Environmental Organisations, including the related tax concession benefits. We offer here some general observations, and specific comments against the Terms of Reference.

CIVIL SOCIETY AND THE ROLE OF NON-GOVERNMENT ORGANISATIONS

A strong civil society – i.e. a dynamic, self-motivated and self-organising citizenry conducting public affairs beyond the ambit of governmental activity and regulation – is an essential part of any healthy modern society. In relation to the conservation of Australia's natural and other heritage, the beneficial historical role of NGOs is clear on many issues that are now common ground for Australian governments of all persuasions. Examples include the needs for a conservation reserve system; for specific protection of native biodiversity that is at risk of decline or extinction; for some limitations on the destruction of habitat (e.g. land clearing, coastal sandmining); for the conservation of water resources including an environmental component; and for clean air and water. In all these cases, and many others, the issue was initially one of concern mainly to non-government organisations, and was only later taken up by governments in policy and legislation as the substance of the issue and the level of community concern became apparent and compelling. The specifics around such issues of course are not necessarily harmonious (e.g. the levels of government action or policy change, if any, that are sought), and not all such issues progress to actual change, but that is part of the process of civic dialogue and evolution of community values, and cannot be productively or successfully regulated or constrained in advance without losing the beneficial aspects of strong civil involvement and initiative.

COMMONWEALTH RECOGNITION OF THE ROLE OF NON-GOVERNMENT ORGANISATIONS

We draw the Inquiry's attention to the fact that the involvement of non-government sectors (both private and community-based) in furthering the protection of natural biodiversity and of ensuring ecologically sustainable development, have been explicitly recognised as essential in the great majority of Commonwealth and State/Territory environmental strategy documents in recent decades, including in the ANPC's own area of concern (the conservation of native biodiversity).

For example, the Commonwealth's Australia's Biodiversity Conservation Strategy 2010–2030 states (p. 4):
It is everyone's responsibility to conserve biodiversity. Governments will play a critical role, but unless the whole community works together to take up the challenge, then we are unlikely to stop the decline in biodiversity. This strategy is a call to action as well as a strategic document.

and further (p. 39, 'Priority 1: Engaging all Australians'):

Engaging all Australians is fundamental if we are to succeed in building ecosystem resilience in a changing climate ...
Mainstreaming biodiversity means integrating biodiversity into decision making so that it becomes everyone's business and is part of every relevant transaction, cost and decision. Demonstrating the multiple benefits of biodiversity is fundamental to engaging all Australians in biodiversity conservation. ...
Mainstreaming biodiversity requires a transformation in the way most Australians think about and value biodiversity. However, biodiversity is a term that is poorly understood and communicated. Improving public awareness and understanding of biodiversity and its multiple benefits is therefore an important and ongoing ingredient in making the subject mainstream ...
To ensure that mainstreaming actually happens in practice, we need to build on current activities and boost effective participation. We need all sectors of primary industries and the community to engage in biodiversity conservation efforts that are relevant to their region.

The significance of the non-government sector is further recognised in the Strategy in the Actions section for Priority 1 (p. 55):

Action Responsibility: Subpriority 1.1 Mainstreaming biodiversity
A1 Develop and implement information and communication programs to raise awareness of biodiversity and its values. Responsibility: All governments, non-government organisations, businesses, public

and finally:

(p. 64): For this Strategy to succeed, the community, including Indigenous peoples, governments and businesses, must agree to share responsibility and work together to implement it.
(pg 68): Non-government organisations, such as environmental, Indigenous, Landcare and industry groups, have considerable local knowledge and expertise in conservation management. They also have effective formal and informal information networks that offer an important mechanism for improving and communicating Australia's biodiversity knowledge.

Other Commonwealth, State and Territory strategies and policy statements, across the whole gamut of environmental issues, could be cited to demonstrate recognition by governments that a cooperative and collaborative approach by government with the non-government civil sector, including community NGOs, is essential. Respecting the complementary but different roles of different sectors is a two-way street.

It would be unfortunate if the present Inquiry adopted recommendations that undermined this recognition of the importance of non-government environmental activity, and the ability of NGOs to play a productive and autonomous role.

ABOUT THE AUSTRALIAN NETWORK FOR PLANT CONSERVATION Inc. (ANPC)

The ANPC is a national, not-for-profit, non-government incorporated association of people and organisations, founded in 1991. It is dedicated to the conservation of Australia's native plant species and vegetation communities, which are part of our living national heritage and underpin the health and productivity of our continent. Our membership encompasses more than 350 individuals and organisations, and includes professional botanists, ecologists, foresters, horticulturalists, restoration specialists, and community conservation practitioners. Our national Management Committee includes leading conservation scientists and practitioners. Our accounts are audited annually.

The ANPC is not a campaign organisation, and not even primarily an advocacy organisation except in a general sense, although we reserve the right to play a specific advocacy role (not at all necessarily in political terms) when the need arises – as with what we believe were constructive submissions to the recent Senate Biosecurity Inquiry.

In general however, our main emphasis is on expertise and knowledge transfer, and support for, conservation practitioners. The ANPC exists to:

- Facilitate linkage and information flow across boundaries;
- Provide a conservation knowledge network with long-term continuity;
- Disseminate scientific knowledge and practical skills and insights;
- Convey on-ground practitioner insights back to scientific and management circles; and
- Encourage dialogue and contact across the conservation sector.

We specialise in the exchange of knowledge and practical experience between scientists, land managers, and conservation practitioners by:

- delivering courses and workshops (60 since 2003, most in regional centres, all jurisdictions except NT);
- publishing the quarterly bulletin Australasian Plant Conservation as a plain-English forum for practitioners across the sector in the Australasian region;
- running biennial national conferences and forums;
- producing nationally recognised best practice guidelines on plant conservation techniques – e.g. Guidelines for the translocation of threatened plants in Australia (2nd edition, 2004), and Plant germplasm conservation in Australia – strategies and guidelines (revised edition, 2009), and issue-specific educational materials – e.g. the comprehensive manual and workshop module ‘Myrtle Rust – a new threat to Australia’s biodiversity’ (2012 et seq.).
- undertaking best practice on-ground works, specialising in the translocation of threatened plant species, and associated surveys, propagation, research and monitoring.

We believe that our activities and products (publications and workshops) are viewed very positively by the operational sections of government conservation and NRM agencies around the country.

Please see www.anpc.asn.au for more information on our activities and constitution.

THE ANPC’S WORK IN RELATION TO R.E.O. LISTING, AND ASSOCIATED CONCESSIONS

The ANPC is on the Commonwealth’s Register of Environmental Organisations, and has Deductible Gift Recipient and Charity Concessions status with the Australian Taxation Office. Our income derives from membership fees, donations, course and conference fees, competitive grants, and service fees. The part of our financial base that is relatable to REO-derived benefits is currently relatively small, but for an organisation of our scale it is nevertheless essential. We are a small organisation in the sense that we have only a very few staff (three part-timers), with a large quantum of our labour inputs being met in-kind by voluntary contributions of time from members both individual and organisational, many of them experts in their fields. This consistent voluntary input over 23 years is something we are very proud of, although we would of course prefer our hard-funded base to grow as well.

Tax concession status is a significant element enabling our current work, and an essential avenue for our future growth and effectiveness in filling the still-large gaps in knowledge transfer and linkage that are not being met by governments. It helps support the overall body of our work, and enables a many-fold return in the form of conservation related actions (training, communication, knowledge exchange) in areas that government agencies simply do not address, or which they choose to outsource via contracts or competitive grant schemes (for which REO status is often a requirement).

COMMENTS ON THE SPECIFIC TERMS OF REFERENCE OF THE INQUIRY

The definition of ‘environmental organisation’ under the Income Tax Assessment Act 1997, including under Subdivision 30-E;

We have reviewed the definitions and requirements in this legislation and offer the following comments:

- Regarding the range of organisational forms recognised in Sect. 30.260, and the additional requirements for two of these forms specified in Sect. 30.275 (and the Ministerial discretion allowed in the latter), we regard the current legislative wording as fully appropriate. The range of environmentally related activities in which NGOs are active is vast, and they vary greatly in their geographic, financial and social base, and also in their modes of operation and service delivery. It is appropriate to allow for a variety of forms of organisation, and not to restrict these options.
- Regarding the ‘principal purpose’ requirements under Sect 30.265, we feel the provisions of Clauses 1 and 2 also remain fully appropriate, i.e. protection and enhancement of the natural environment or a significant aspect thereof, and/or the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect thereof. The Public Fund requirement is also appropriate, is not overly onerous to establish and maintain, and provides a satisfactory means by which to receive, use and report on tax-concessional income. The Clause 4 provision for Ministerial rules already provides a means for the Commonwealth to deal with any improper or inappropriate use of tax-concessional income – we do not regard any further legislative change in this regard as either necessary or desirable.

- Regarding the provisions of Sect. 30-270 (no payment of profits to members, no acting as a conduit for tax-concessionary funds, wind-up procedures, and mandatory reportage of tax-concessionary income), we see these as mostly proper and desirable. There are potential arguments in favour of some relaxation of the 'no conduit' provision, particularly given the difficulties faced by small local groups in establishing and maintaining organisational structures, but we accept that this would require some complex re-definition and we do not here argue for any change to that clause.

The requirements to be met by an organisation to be listed on the Register and maintain its listing:

- The existing requirements seem to us to be adequate, fair and not too onerous either for government or the organisation concerned. We see no reason to change them. We would not support overly frequent requirements for renewal of listing, as we feel this would be vulnerable to misuse, or at least to the appearance of a conflict of interest on the part of government. If additional requirements were to be imposed on listing, we suggest that it would be appropriate to make this subject to an assessment mechanism at arm's length from government – but we repeat that we see no need for change.
- We note the valuable role played over decades by a number of organisations that have successfully combined multiple roles (project delivery, education, research and advocacy) while treating activities under these headings objectively and while maintaining good cooperative relationships with governments in relation to some of them while having differences on others. Examples would include the role of WWF in producing a number of important government-commissioned reports, universally recognised as objective and valuable, while maintaining an advocacy role in other respects. The Environmental Defenders Office network would also furnish past examples.
- We would also point to the potential for perverse outcomes if the scope of REO listing were to be substantially curtailed. At present, many competitive and discretionary funding programs, both from government and private/philanthropic sources, specify REO listing and/or the associated charitable concessions status, as prerequisites for applicants. This provides them with a first line of screening of applicant organisations, prior to more project-specific assessment, and governments of course are actively seeking to outsource necessary environmental functions for which they lack internal capacity. Given that a large proportion of such grants go to environmental organisations that combine various functions (delivery, education, research, advocacy), the result of restrictions to REO listing and benefits may well be to disqualify a large part of the most capable sections of the environmental 'workforce' upon which the national effort depends. Granting bodies may eventually adjust their application ground rules to suit a changed REO situation, but it is likely that the implications of such a change would take some years to filter through (especially in the philanthropic sector), and the loss from the applicant pool of good organisations that decline to restrict their activity simply to achieve REO listing would be permanent.

Activities undertaken by organisations currently listed on the Register and the extent to which these activities involve on-ground environmental works:

- It may be a beneficial outcome of this Inquiry that a more comprehensive picture is obtained of the full span of activities undertaken by REO-listed organisations. This could and should be regarded as a positive and informative body of information, not merely as a ground for criticism on cherry-picked contentious issues, and should itself be used as part of the corpus of public knowledge that supports our overall assessment of environmental progress.
- Regarding 'on-ground environmental works', there has been an understandable but sometimes too simplistic emphasis on 'on-ground' in recent years in relation to several important government competitive grant schemes, both Commonwealth and State. In part this has been in order to more clearly define the scope of those schemes, and to try to maximise on-ground effect – which is fair enough, although sometimes on-ground effect actually requires investment at some other level (e.g. biocontrol research) in order to be effective. But there has also been an element in recent times of painting areas of activity other than narrowly defined 'on ground works' (including research, education, and advocacy) as either non-essential or somehow a form of illegitimate use of the environmental dollar. For any one grant program, a close definition of scope, including for 'on ground' work where appropriate, is fine. But for the grant landscape overall, a balance between 'on-ground' and other forms of necessary work should be preserved, and this is even truer for the overarching provisions of the REO and the related sections of the Income Tax Assessment Act 1997.

- **It would be entirely counterproductive for the Commonwealth to restrict REO listing and benefits to narrowly defined ‘on-ground works’, and to exclude the range of other equally necessary aspects of improving Australia’s environmental performance** (as recognised in the Commonwealth *Biodiversity Strategy*, and in the properly broad scope of the current wording of Sect. 30.265 of the Income Tax Assessment Act 1997).
- A close analogy of the relationship between ‘on ground work’ and the overall needs of the environmental challenge can be drawn with the Health area: primary health care (looking after sick people) is undoubtedly central, but does not and should not prevent investment and initiative in preventive health care, health research, health education, and health advocacy, including policy advocacy (even when this makes some parties uncomfortable).

Reporting requirements for organisations to disclose donations and activities funded by donations:

- We regard the current reporting requirements as entirely adequate. We do not see any need either from our perspective or for the sector as a whole, for any changes to disclosure and reporting requirements unless deficiencies in these can be convincingly demonstrated – and we see no evidence of this to date.

The administration of the Register and potential efficiency improvements:

- inefficiencies in the administration of the register at this point, and in the absence of these we see no need for change.

Compliance arrangements and the measures available to the Department of the Environment and the Australian Taxation Office to investigate breaches of the Act and Ministerial Guidelines by listed organisations:

- It is our understanding that the existing Department of Environment rules surrounding REO listing, plus the Ministerial discretionary power allowed by Sect. 30.265(4) of the Income Tax Assessment Act 1997, provide adequate controls, and do not need either regulatory or legislative amendment. We note that the Ministerial discretionary power has been used very lightly, if at all, under the various governments since it was enacted, and we regard that as a good thing.

Relevant governance arrangements in international jurisdictions, and exploring methods to adopt best practice in Australia:

- In principle we are always in favour of genuine and measured assessment of international approaches to conservation (and similarly across jurisdictional boundaries in Australia), whether related to legislative, policy, technical or practical issues. A Parliamentary Inquiry is not necessarily the best forum in which to conduct such assessments. We are of course aware of recent legislative developments in Canada, New Zealand, and Russia, which in different ways restrict the ambit and autonomy of environmental organisations.
- We would regard it as very inappropriate for government to actively seek to constrain (through the REO and Tax mechanisms) the activity of environmental organisations beyond the existing provisions and definitions. Other means exist for governments of the day to make clear their own priorities and investment preferences (e.g. through the shape of their policy, the scoping of grants programs, specific budgeted investment, and engagement in dialogue and political argument with non-government organisations where differences exist). These are avenues where issues can at least be debated on merit, and consensus sometimes reached. As stated above, and as is evident from its history, the ANPC is not itself a campaign organisation, and while we strongly advocate for native plant conservation in general, and sometimes (we hope constructively) on specific issues, our main work is through other avenues. Nevertheless we feel that any proposal to emulate the recent Canadian legislative constraint on advocacy rights or environmental organisations as being entirely counterproductive.

Thank you again for the opportunity to provide comment to this inquiry.

We would be happy to provide further material if required or an oral submission if this is requested.

Yours sincerely,

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On behalf of the management committee for the Australian Network for Plant Conservation Inc.