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Inquiry into the Register of Environmental Organisations

House of Representatives
Standing Committee on the Environment

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Canberra

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Foreword

In seeking to improve the natural environment, many not-for-profit environmental organisations work hand-in-hand with communities across Australia. Much of this work relies on the generous financial contributions of members and supporters. Often these donations are tax-deductible, which recognises the public good that comes from environmental work.

As such, public trust and confidence in the tax-concessional arrangements for environmental organisations is essential. The public should be assured that tax concessions are granted appropriately. Similarly, donors should be assured that their donations are distributed and used in line with their expectations.

This inquiry considered the administration and transparency of the Register of Environmental Organisations, which is the Commonwealth scheme to enable eligible environmental organisations to receive tax-deductible donations. Consistent with the terms of reference, the focus of the inquiry was on the effectiveness of the Register in supporting communities to undertake practical action to improve the environment.

In preparing the report of the inquiry, the Committee has identified measures to strengthen the integrity of tax-concessional arrangements for environmental organisations. The Committee has also identified scope to streamline the administration of the system. The recommendations outlined in the report are intended to make the system clearer for donors, environmental organisations, and the wider community.

On behalf of the Committee, I take this opportunity to thank the environmental organisations, representative bodies, individuals, and other stakeholders who contributed evidence to the inquiry. In particular, I would like to thank the many environmental organisations who hosted the Committee at site inspections around the country. The Committee was consistently impressed with the dedication and

professionalism of these organisations and their clear commitment to achieving lasting environmental outcomes.

I acknowledge the significant commitment made by my fellow Committee members in undertaking the extensive program of public hearings and site inspections around the country. Although we did not always agree on the matters under consideration, I thank my parliamentary colleagues for their constructive approach to the inquiry.

Lastly, I acknowledge the significant contribution made by the former Chair of the Committee, the Hon. Alex Hawke MP, who oversaw the establishment of the inquiry and the initial stages of evidence gathering.

The Hon. John Cobb MP
Chair

Membership of the Committee

Chair	The Hon. John Cobb MP (from 9/9/15)
	Mr Alex Hawke MP (to 9/9/15)
Deputy Chair	Mr Andrew Giles MP (from 20/10/15)
	Mr Tony Zappia MP (to 20/10/15)
Members	Mr Andrew Broad MP (to 9/9/15, and from 14/9/15)
	The Hon. Mark Butler MP
	The Hon. Mark Dreyfus QC MP
	Mr Andrew Giles MP (to 20/10/15)
	Mr Alex Hawke MP (from 9/9/15 to 14/9/15)
	Ms Nola Marino MP
	Mr Tony Pasin MP
	Mr Nickolas Varvaris MP
	Mr Jason Wood MP
	Mr Tony Zappia MP (from 20/10/15)
Supplementary Members	Mr Andrew Broad MP (from 9/9/15 to 14/9/15)
	Mr George Christensen MP (from 20/4/15)
	Ms Sharon Claydon MP (from 12/5/15)
	Mr Alex Hawke MP (from 14/9/15 to 12/10/15)

Committee Secretariat

Secretary	Ms Peggy Danaee
Inquiry Secretary	Mrs Renee Toy (from 9/12/15)
Senior Research Officer	Dr Ashley Stephens (from 9/4/15)
Research Officer	Ms Sarah Codrington (from 6/7/15)
Office Manager	Ms Morana Kavgic
Administrative Officer	Ms Kathleen Blunden (to 30/10/15)

Terms of reference

The Committee 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. The inquiry will have particular regard to:

- the definition of 'environmental organisation' under the *Income Tax Assessment Act 1997* (Cth) (the Act), including under Subdivision 30-E;
- the requirements to be met by an organisation to be listed on the Register and maintain its listing;
- activities undertaken by organisations currently listed on the Register and the extent to which these activities involve on-ground environmental works;
- reporting requirements for organisations to disclose donations and activities funded by donations;
- the administration of the Register and potential efficiency improvements;
- 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; and
- relevant governance arrangements in international jurisdictions, and exploring methods to adopt best practice in Australia.

List of abbreviations

ACNC	Australian Charities and Not-for-profits Commission
ACNC Act	*Australian Charities and Not-for-profits Commission Act 2012* (Cth)
ASIC	Australian Securities and Investments Commission
ASL	Average staffing level
ATO	Australian Taxation Office
AYCC	Australian Youth Climate Coalition
Charities Act	*Charities Act 2013* (Cth)
CERES	Centre for Education and Research in Environmental Strategies
CORENA	Citizens Own Renewable Energy Network Australian Inc.
CSIRO	Commonwealth Scientific and Industrial Research Organisation
DGR	Deductible gift recipient
EDOs of Australia	Australian Network of Environmental Defenders Offices
ITAA	*Income Tax Assessment Act 1997* (Cth)
MOU	Memorandum of understanding

List of recommendations

3 The Register in operation

Recommendation 1

The Committee recommends that the Register of Environmental Organisations be abolished and that the administration process for endorsement as a Deductible Gift Recipient for environmental organisations be transferred wholly to the Australian Taxation Office.

Recommendation 2

The Committee recommends that registration as an environmental charity through the Australian Charities and Not-for-profits Commission be a prerequisite for environmental organisations to obtain endorsement as a Deductible Gift Recipient by the Australian Taxation Office.

Recommendation 3

The Committee recommends that the Treasurer and the Minister for the Environment pursue amendments to the *Income Tax Assessment Act 1997* (Cth) to remove environmental Deductible Gift Recipients listed individually by name in the Act.

Recommendation 4

The Committee recommends that the Australian Taxation Office maintain a publicly available list of organisations that receive Deductible Gift Recipient endorsement as an environmental charity.

4 Activities undertaken by environmental deductible gift recipients

Recommendation 5

The Committee recommends that legislative and administrative changes be pursued by the Australian Taxation Office to require that the value of each environmental deductible gift recipient's annual expenditure on environmental remediation work be no less than 25 per cent of the organisation's annual expenditure from its public fund.

5 Community engagement with environmental deductible gift recipients

Recommendation 6

The Committee recommends that administrative sanctions be introduced for environmental deductible gift recipients that encourage, support, promote, or endorse illegal or unlawful activity undertaken by employees, members, or volunteers of the organisation or by others without formal connections to the organisation.

6 Reporting and compliance

Recommendation 7

The Committee recommends that environmental organisations with deductible gift recipient status be required to submit an annual self-assessment to the Australian Taxation Office supporting their continuing eligibility for endorsement as a deductible gift recipient.

Recommendation 8

The Committee recommends that the Commonwealth Treasury, in consultation with the Australian Taxation Office, review the provisions in the *Income Tax Assessment Act 1997* (Cth) prohibiting conduit behaviour, with a view to providing clear guidance to environmental deductible gift recipients, as to the types of activities that would constitute conduit behaviour.

Recommendation 9

The Committee recommends that the Australian Taxation Office, in conjunction with the Commonwealth Treasury, investigate options for establishing annual reporting requirements for organisations to maintain deductible gift recipient status as an environmental organisation, where such reporting is to be made publicly available.

1

Introduction

1.1 Not-for-profit organisations receive government assistance through a range of tax concessions, including the ability to receive tax-deductible gifts and contributions. Tax deductibility is intended to encourage giving to eligible entities that have been assessed as providing a public benefit.

1.2 To receive tax-deductible gifts and contributions, an organisation must be endorsed by the Australian Taxation Office (ATO) as a deducible gift recipient (DGR).

1.3 To be eligible for DGR endorsement, organisations that undertake environmental work are required to be listed on the Register of Environmental Organisations (the Register), which is administered by the Commonwealth Department of the Environment (the Department).

Related inquiries

1.4 In 2011, the Australian National Audit Office undertook an independent performance audit of the ATO's administration of DGRs.[1]

1.5 Similarly, in 2013, the Not-for-profit Sector Tax Concession Working Group, established by the then Assistant Treasurer, reported on the broader framework of tax concessions available to not-for-profit entities.[2]

1.6 Both reports identified scope for improvements to the administration of DGR status. However, the Committee is not aware of any recent assessments of the Register specifically, or its administration by the Department.

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1 Australian National Audit Office, *Audit Report No. 52 2010–11, Administration of Deductible Gift Recipients (Non-profit Sector): Australian Taxation Office.*

2 Not-for-profit Sector Tax Concession Working Group, *Fairer, simpler and more effective tax concessions for the not-for-profit sector*: *Final Report*, May 2013.

The current inquiry

1.7 On 24 March 2015, the Minister for the Environment, the Hon. Greg Hunt MP, wrote to the Committee requesting that it inquire into and report on the administration and transparency of the Register and its effectiveness in supporting communities to take practical action to improve the environment.

1.8 On 26 March 2015, the Committee adopted the terms of reference referred by the Minister.

Conduct of the inquiry

1.9 The inquiry was advertised on 26 March 2015. Submissions were invited from organisations on the Register, some of the contributors to previous inquiries of the Committee, and other relevant stakeholders.

1.10 The Committee received 685 submissions and 21 supplementary submissions, which are listed in Appendix A. The Committee also received 12 exhibits, which are listed in Appendix B.

1.11 The Committee received a significant volume of form letters and other correspondence related to the inquiry (10,082 examples of 21 unique form letters or contributions generated via web forms were received, and 215 pieces of correspondence were noted by the Committee). Consistent with the practices of other Committees and previous inquiries undertaken by this Committee, in most cases an example of each form letter received was accepted as a submission and published on the inquiry web page.

1.12 The Committee acknowledges that form letters reflect genuine public interest in the inquiry. However, the Committee also notes that, in this instance, the form letters received had limited evidentiary value and imposed a disproportionate administrative burden, detracting from the work of the Committee. Notwithstanding, the Committee appreciates the many detailed and thoughtful submissions from environmental organisations and other stakeholders, especially those submissions which clearly and thoroughly addressed the inquiry's terms of reference.

1.13 Due to the strong public interest in the inquiry—particularly from small, community-based environmental organisations with a direct interest in the inquiry—the Committee resolved to undertake an extensive program of public hearings and site inspections around Australia. The Committee sought to hear firsthand about the range of environmental work being supported by the Register.

1.14 The Committee heard from a wide range of witnesses at public hearings in Canberra, Brisbane, Hobart, Adelaide, Perth, Melbourne, Bowen, and Sydney. These witnesses are listed in Appendix C.

1.15 The Committee met with representatives and members of the following environmental organisations at site inspections in Queensland, Tasmania, South Australia, Western Australia, and Victoria:

- Bulimba Creek Catchment Coordinating Committee;
- Australian Rainforest Conservation Society;
- Landcare Tasmania;
- Quamby Bend Landcare Group;
- Greening Australia;
- Murray Bridge Community Nursery;
- Monarto Zoo;
- Conservation Council of South Australia;
- Trees for Life;
- Cockburn Wetlands Education Centre;
- Native ARC;
- Friends of Lake Claremont;
- CERES Community Environment Park; and
- Australian Institute of Marine Science.

1.16 The Committee also visited Abbot Point—a site that was raised in many submissions to the inquiry—and received briefings from the North Queensland Bulk Ports Corporation and Glencore.

1.17 Lastly, the Committee held a private roundtable discussion in Melbourne with members of the Australian Environmental Grantmakers Network.

1.18 The Committee expresses its appreciation to all of these stakeholders for taking the time to meet with the Committee and for their significant contribution to the inquiry.

Scope of the inquiry and this report

1.19 Throughout this report, and unless otherwise specified, the term 'environmental DGR' is used to refer to organisations that are listed on the Register as well as environmental organisations that hold DGR status as a result of being listed by name in Section 30-55 of the *Income Tax Assessment Act 1997* (Cth).

1.20 Reflecting the weight of the evidence received, this report has a focus on the administration of the Register by the Department and the activities of registered organisations.

1.21 Chapter 2 provides an overview of the establishment of the Register and the requirements to be met by environmental DGRs. The chapter also discusses the relationship between DGR status and charitable status and briefly considers equivalent regulation in international jurisdictions.

1.22 Chapter 3 considers evidence in relation to the administration of the Register, including the extent of duplication between the process of seeking and maintaining DGR endorsement and related regulatory requirements. The chapter also considers proposals for reform of the Register.

1.23 Chapter 4 presents an overview of the activities undertaken by environmental DGRs. Although it is clear that a broad range of work is undertaken by environmental DGRs, the Committee considered that the terms of reference required a particular focus on on-ground work and practical action to improve the environment.

1.24 Chapter 5 considers evidence relating to community engagement with environmental DGRs. The chapter considers donations to environmental DGRs and public trust in the sector, as well as evidence in relation to community concerns with the activities of some environmental DGRs.

1.25 The final chapter of this report considers the reporting and compliance framework for environmental DGRs, including the powers available to the Department and the role of other regulators. The chapter concludes with a consideration of options to strengthen reporting and compliance for environmental DGRs.

1.26 Given the scope of the terms of reference, many of the matters raised throughout the inquiry were interrelated. Readers will therefore find that each of the terms of reference is addressed across several chapters, and the terms of reference as a whole are covered by the entirety of this report.

2

Background to the Register

2.1 This chapter provides a brief overview of the Register of Environmental Organisations (the Register), the Commonwealth scheme enabling eligible not-for-profit environmental organisations to access tax-deductible donations.

2.2 The chapter reviews the establishment and administration of the Register and outlines briefly how the organisations on the Register relate to charities registered with the Australian Charities and Not-for-profits Commission (ACNC).

2.3 Finally, this chapter briefly compares the Australian framework with arrangements in some international jurisdictions.

Deductible gift recipient status

2.4 For an organisation to be entitled to receive tax-deductible donations or other tax-deductible contributions, it must be a deductible gift recipient (DGR). A person who makes a donation or contribution to a DGR can claim that donation or contribution as a deduction in their tax return. Furthermore, some philanthropic bodies—such as public and private ancillary funds—and grant makers can distribute funds only to organisations that have DGR status.[1]

2.5 The legislation that enables DGR status is the *Income Tax Assessment Act 1997* (Cth) (ITAA). For an organisation to obtain DGR status it must be listed by name in the ITAA or be endorsed by the Australian Taxation Office (ATO). An organisation may have DGR endorsement in its own

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1 Philanthropy Australia, *Submission 420*, p. 1; Australian Charities and Not-for-profits Commission (ACNC), 'Factsheet: Deductible gift recipients and the ACNC' <www.acnc.gov.au/ACNC/FTS/Fact_DGR.aspx> viewed 4 March 2016.

right, or it may only be a DGR in relation to a fund, authority or institution it operates. In this instance, only gifts made to the fund, authority or institution are tax deductible.[2]

2.6 To be eligible for endorsement as a DGR, an organisation must fall within one of 51 categories set out in the ITAA.[3] The ATO is directly responsible for the administration of 47 of these categories. The remaining four categories are the:

- Overseas Aid Gift Deduction Scheme;
- Register of Cultural Organisations;
- Register of Harm Prevention Charities; and
- Register of Environmental Organisations.[4]

The administration of each of these four categories is the responsibility of the relevant Commonwealth department.

2.7 Across all categories, approximately 28,000 organisations are endorsed as DGRs, and the estimated value of revenue forgone for donations to DGRs was approximately $1.2 billion in 2013–14.[5]

Register of Environmental Organisations

2.8 In 1966, the Australian Conservation Foundation Incorporated became the first environmental organisation to obtain DGR status by being listed in the ITAA, and thereby became entitled to receive tax-deductible donations.[6] Between 1966 and 1990, a further 12 environmental organisations were listed by name in the ITAA. These were:

- Greening Australia Limited;
- Landcare Australia Limited;
- National Parks Association of New South Wales;
- Victorian National Parks Association Incorporated;
- Trust for Nature (Victoria);
- National Parks Association of Queensland;
- Nature Conservation Society of South Australia Incorporated;

2 Australian Business Register, 'Deductible Gift Recipients' <http://abr.business.gov.au/DgrListing.aspx> viewed 3 March 2016.

3 *Income Tax Assessment Act 1997* (Cth) (ITAA), s. 30-B.

4 Department of the Environment, *Submission 185*, p. 8.

5 Department of the Environment, *Submission 185*, pp. 7, 11.

6 Australian Conservation Foundation, *Submission 387*, p. 1.

- Nature Foundation SA Incorporated;
- Western Australian National Parks and Reserves Association Incorporated;
- Tasmanian Conservation Trust Incorporated;
- National Parks Association of the Australian Capital Territory Incorporated; and
- World Wide Fund for Nature.[7]

2.9 During that period, relatively few environmental organisations had DGR status, primarily because each addition required an Act of Parliament to amend the ITAA. Due to this limitation, some environmental DGRs entered into informal arrangements with other organisations to collect tax-deductible donations on their behalf.[8] In this way, environmental DGRs would essentially collect and distribute funds intended by donors to be passed on to organisations without DGR status.

2.10 To streamline the process for environmental organisations to obtain DGR status, and to increase transparency of access to tax-deductible donations, the Register of Environmental Organisations was proposed as part of the 1992–93 Budget. The Register was subsequently legislated through the *Taxation Laws Amendment Act (No. 5) 1992* (Cth) and came into effect on 24 December 1992.

2.11 The Register enables eligible environmental organisations to be endorsed as DGRs without the need for legislative amendment. The legislation establishing the Register also removes the ability of environmental organisations with DGR status to collect tax-deductible donations on behalf of other bodies, or act as 'mere conduits' for monies that were intended by the donor to be transferred to other organisations or persons.[9]

2.12 Currently, 596 environmental organisations are listed on the Register.[10] Since the establishment of the Register in 1992, registered organisations have reported collecting a total of approximately $1.3 billion in donations, with the organisations listed by name in the ITAA reporting an additional $270 million.[11] In 2013-14 alone, registered organisations reported

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7 Department of the Environment, *Submission 185*, pp. 4–5. For the current list, see ITAA s. 30-55.

8 Department of the Environment, *Submission 185*, p. 5.

9 Explanatory Memorandum to the Taxation Laws Amendment Bill (No. 5) 1992 (Cth) and the Income Tax (Dividends and Interest Withholding Tax) Bill 1992 (Cth), p. 43.

10 Department of the Environment, 'Register of Environmental Organisations' <https://www.environment.gov.au/about-us/business/tax/register-environmental-organisations/listed-organisations> viewed 4 January 2016.

11 Department of the Environment, *Submission 185*, p. 9.

collecting a total of approximately $129 million in donations, resulting in forgone revenue of approximately $45 million.[12]

Responsibility for the Register

2.13 The Secretary of the Department of the Environment is responsible for keeping the Register.[13] The Register must include the name of each environmental organisation and the fund it maintains for the purpose of collecting donations.[14] A full list of organisations on the Register is provided on the Department of the Environment's website.[15]

2.14 An organisation can only be entered onto or removed from the Register by decision of both the Environment Minister and the Assistant Treasurer, acting for and on behalf of the Treasurer.[16]

2.15 The Department's role in making assessments on an organisation's eligibility for the Register and its role in advising the Environment Minister is discussed in further detail in Chapter 3.

Definition of environmental organisation

2.16 An 'environmental organisation' must meet the membership, structure, and compliance requirements outlined in the ITAA.[17]

2.17 To be considered an environmental organisation, an organisation must:

- be a body corporate, a cooperative society, a trust or an unincorporated body;[18]
- have a principal purpose of:
  - ⇒ the protection and enhancement of the natural environment or of a significant aspect of the natural environment; or

12 Department of the Environment, *Submission 185*, p. 11.

13 Department of the Environment, *Submission 185*, p. 12; ITAA, s. 30-255.

14 ITAA, s. 30-280(1).

15 Department of the Environment, 'Register of Environmental Organisations' < https://www.environment.gov.au/about-us/business/tax/register-environmental-organisations/listed-organisations> viewed 3 March 2016.

16 Department of the Environment, *Submission 185*, pp. 4, 21.

17 Department of the Environment, *Submission 185*, p. 12.

18 ITAA, s. 30-260.

- ⇒ the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment;[19]

- maintain a 'public fund' to which gifts of money or property are to be made;[20]
- agree to comply with any rules made by the Treasurer and Minister for the Environment to ensure gifts made to the fund are used only for the organisation's principal purpose;[21]
- not pay any profits, surplus or property to its members, beneficiaries, controllers or owners;[22]
- not act as a 'mere conduit' for the donation of monies or property to another organisation, body or person;[23]
- have rules in place to transfer any surplus assets to another fund on the Register if it is wound up;[24] and
- agree to provide statistical information to the Environment Secretary each year about gifts made to the public fund after each income year.[25]

2.18 If the organisation is a body corporate or cooperative society, its membership must either consist principally of bodies corporate, or have at least 50 individual members that are regarded as financial, voting members.[26]

Principal purpose test

2.19 As noted above, the test for inclusion on the Register is in terms of 'purpose' rather than 'activity'.[27] It is considered that an organisation's principal purpose must be its chief or main purpose, but not necessarily its sole purpose.[28]

2.20 Providing that the organisation has one of the principal purposes established in section 30-55 of the ITAA, there are no apparent restrictions

19 ITAA, s. 30-265(1).
20 ITAA, s. 30-265(2).
21 ITAA, s. 30-265(4).
22 ITAA, s. 30-270(1).
23 ITAA, s. 30-270(2).
24 ITAA, s. 30-270(3).
25 ITAA, s. 30-270(4).
26 ITAA, s. 30-275.
27 Department of the Environment, *Submission 185*, p. 14.
28 Department of the Environment, *Submission 185*, p. 14.

on the activities an environmental DGR engages in to achieve its principal purpose.[29]

2.21 The Department's role in assessing whether an organisation meets the principal purpose test is discussed further in Chapter 3.

2.22 The Committee heard there was confusion and lack of clarity regarding various aspects of the principal purpose test. Some of these definitional issues are introduced below and discussed further in Chapter 4.

Protection and enhancement of the natural environment

2.23 The term 'natural environment' is not defined in the ITAA. However, the Explanatory Memorandum to the legislation establishing the Register states:

> … 'natural environment' and concern for it would include, for example, significant natural areas such as rainforests; wildlife and their habitats; issues affecting the environment such as air and water quality, waste minimisation, soil conservation, and biodiversity; and promotion of ecologically sustainable development principles.[30]

2.24 In referring to the guidance outlined in the Explanatory Memorandum, the Department noted that the purpose of 'protecting and enhancing the natural environment' was very broad, and could include activities which extend beyond on-ground work to the promotion of general principles and policies.[31]

Provision of information or education

2.25 While there is a requirement that the provision of information or education be about the natural environment or a significant aspect of the natural environment, the Department noted there is no express limitation in the ITAA that the provision of information or education must be aimed at achieving the protection and enhancement of the natural environment.[32]

2.26 However, although not specified in the ITAA, the Department advised that it considers that the provision of information or education, or the

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29 Ms Lara Musgrave, Assistant Secretary, Engagement and Evaluation, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 5; Not-for-profit Project, University of Melbourne Law School, *Submission 220*, p. 2.

30 Explanatory Memorandum to the Taxation Laws Amendment Bill (No. 5) 1992 (Cth) and the Income Tax (Dividends and Interest Withholding Tax) Bill 1992 (Cth), p. 46; Department of the Environment, *Submission 185*, p. 14.

31 Department of the Environment, *Submission 185*, p. 14.

32 Department of the Environment, *Submission 185*, p. 15.

carrying on of research, should ultimately be directed at some positive benefit relating to the protection of the natural environment:[33]

> The test for us is: 'Are the activities about the promotion of those things?' There is a test around whether the information and education and undertaking of activities is for the protection and enhancement of the environment …[34]

2.27 The Department provided no additional guidance as to what form information or education might take, or what activities might be considered informational or educational.

Relationship between DGRs and registered charities

2.28 In general, endorsement as a DGR by the ATO is a separate process from registration as a charity. Charitable status is granted by the ACNC, the independent statutory authority responsible for the regulation of charities.[35]

2.29 The *Charities Act 2013* (Cth) governs the granting of charitable status. This Act requires that a charity must pursue one or more charitable purposes and have no disqualifying purposes.[36]

2.30 Whereas DGR status entitles an organisation to receive tax-deductible donations, charitable status entitles an organisation to access a range of tax concessions including income tax exemption, GST concessions, and fringe benefits tax rebates.

2.31 An organisation with DGR status will not necessarily be a registered charity, and vice versa. However, charitable status is a prerequisite of endorsement for many DGR categories, including two of the four DGR registers—the Register of Harm Prevention Charities and the Overseas Aid Gift Deduction Scheme.[37]

2.32 In the case of environmental organisations, charitable status is not a requirement of listing on the Register. However, the ACNC advised that there are broad similarities and no significant conflicts between the requirements of DGR status and the requirements of charitable status.[38]

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33 Department of the Environment, *Submission 185*, p. 15.

34 Ms Musgrave, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 5.

35 Department of the Environment, *Submission 185*, p. 6.

36 *Charities Act 2013* (Cth), s. 12; ACNC, *Submission 189*, pp. 5–8.

37 ACNC, *Submission 189*, p. 10.

38 ACNC, *Submission 189*, pp. 8–10.

2.33 Consistent with this, there is a substantial overlap in the membership of the two categories. Approximately 75 per cent of organisations listed on the Register are also registered charities.[39] In 2013–14, registered charities received 99 per cent of the value of donations to organisations listed on the Register.[40]

Comparison with international jurisdictions

2.34 The terms of reference to this inquiry ask the Committee to consider relevant governance arrangements in international jurisdictions, and to explore options for adopting best practice in Australia.

2.35 Governance practices in international jurisdictions are addressed throughout this report. However, a brief consideration here of the wider regulatory frameworks in comparable jurisdictions, is prudent.

2.36 In comparable jurisdictions, not-for-profit environmental organisations that meet certain requirements can access tax concessions, including tax concessions in relation to individual donations.[41]

2.37 In the United Kingdom and Canada, all registered charities are eligible to receive tax-deductible donations.[42]

2.38 In New Zealand, an organisation is not required to be a registered charity to be eligible to receive tax-deductible donations. However, the eligibility criteria for tax-deductibility include that funds are applied to charitable, benevolent, philanthropic or cultural purposes, and registered charities are automatically assessed for tax-deductibility.[43]

2.39 In the United States, the most common category of tax-exempt organisations—which are entitled to receive tax-deductible donations—requires that an organisation be established and operated exclusively for a charitable purpose.[44]

2.40 Although the interpretation of charity and charitable purpose differs in each jurisdiction, the definitions are sufficiently broad in each case to include organisations whose purposes relate to the environment.

2.41 In all four jurisdictions, eligibility for tax concessions is administered by the agency responsible for revenue collection in that jurisdiction—the

39 ACNC, *Submission 189*, p. 4.

40 Ms Musgrave, Department of the Environment, *Committee Hansard*, 16 June 2015, p. 5.

41 Department of the Environment, *Submission 185.1*, pp. 4–11.

42 Department of the Environment, *Submission 185.1*, pp. 5, 9.

43 Department of the Environment, *Submission 185.1*, pp. 6–7.

44 Department of the Environment, *Submission 185.1*, p. 10.

equivalent of the ATO in Australia. In the United Kingdom and New Zealand, administration of charitable status is the responsibility of an independent charities regulator, comparable to the ACNC.[45]

Committee comment

2.42 The Committee notes the evolution of the DGR framework since 1966, when the first environmental organisation gained DGR endorsement by being listed in the provisions of the ITAA.

2.43 With now almost 600 organisations listed on the Register, and another 13 listed by name in the ITAA itself, anomalies have emerged in the system of regulation applied to environmental DGRs when compared with the governance and administration of other DGR categories.

2.44 Issues relating to the administration and operation of the Register, raised in evidence by a variety of inquiry participants, are discussed in detail in Chapter 3.

2.45 The establishment of the ACNC, as a means of regulating the registration of charities more broadly, has introduced some duplication with the DGR endorsement process for environmental organisations, and placed some doubt over the effectiveness of the DGR framework, particularly in relation to issues of compliance and enforcement. These issues are discussed in detail in Chapter 6.

2.46 The Committee notes, however, that a more fulsome and broad ranging consideration of the overall DGR framework is outside of the terms of reference and scope of this inquiry.

2.47 Accordingly, the Committee has focussed its attention in this report on ways of improving the administration, transparency and efficiency of the DGR framework as it relates to environmental organisations only.

2.48 Nevertheless, the Committee encourages a broader and more thorough consideration of the entire DGR system by the Australian Government, in due course.

45 EDOs of Australia, *Submission 403*, p. 15.

3

The Register in operation

3.1 The administration of the Register of Environmental Organisations (the Register) was a significant area of focus in the inquiry and an area of particular interest to the Committee.

3.2 Several issues were raised in evidence, which go to the current administration and operation of the Register, considered throughout this chapter:

- the role and powers of the Department of the Environment (the Department) in maintaining the Register;
- the administration of the Register; and
- the role and powers of the Australian Charities and Not-for-profits Commission (ACNC) in the registration and regulation of charities, and how this relates to the Register.

Role and powers of the Department of the Environment

3.3 The Register was created to increase transparency of access to the gift provisions of the *Income Tax Assessment Act 1936* (Cth), and to enhance the fundraising ability of conservation groups.[1]

3.4 As outlined in Chapter 2, the Secretary of the Department of the Environment is responsible for keeping the Register.[2]

3.5 An environmental organisation seeking deductible gift recipient (DGR) status is assessed by the Department, before being endorsed as a DGR by

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1 Department of the Environment, *Submission 185*, p. 5.

2 Department of the Environment, *Submission 185*, p. 4.

the Australian Taxation Office (ATO).[3] This is in contrast to the majority of the 51 DGR categories, of which 47 are administered wholly by the ATO.[4]

3.6 The Environment Minister and the Treasurer (currently, the Assistant Treasurer, acting for and on behalf of the Treasurer for matters related to the Register) are jointly responsible for directing the Environment Secretary to enter organisations on the Register.[5]

3.7 A direction is made after the Environment Minister has notified the Assistant Treasurer in writing that he or she is satisfied the organisation is an environmental organisation.[6]

3.8 The Department's role in administering the Register includes carrying out an initial assessment of all applications for inclusion on the Register, and providing advice to the Environment Minister on whether the organisation meets the legislative requirements of the *Income Tax Assessment Act 1997* (Cth) (ITAA) and the administrative requirements of the Register's Guidelines.[7]

3.9 An organisation must also agree to comply with any rules that the Environment Minister and the Assistant Treasurer make to 'ensure that gifts made to the fund are used only for its principal purpose'.[8] The Department reviews whether an organisation has agreed to abide by these rules, by reviewing an organisation's constitution, or its policies listed on its website.[9]

3.10 To determine whether an organisation meets the principal purpose test, the Department considers the objects or purposes set out in the organisation's founding documents, and the description of its activities.[10] The Department explained:

> Their governing documents generally give a stated purpose and then we inquire generally about how they operate. But it is around their governing documents—what they have, in essence, stated as

3 Department of the Environment, *Submission 185*, p. 4.

4 Department of the Environment, *Submission 185*, p. 7.

5 Department of the Environment, *Submission 185*, p. 12; *Income Tax Assessment Act 1997* (Cth) (ITAA), s. 30-280(2).

6 Department of the Environment, *Submission 185*, p. 12; ITAA, s. 30-280(2).

7 Department of the Environment, *Submission 185*, p. 12; Department of the Environment, *Submission 185*, Attachment D: 'Register of Environmental Organisations Guidelines', p. 4.

8 ITAA, s. 30-265(4); Department of the Environment, *Submission 185*, p. 13; Department of the Environment, *Submission 185*, Attachment F: 'Ministerial Rules'.

9 Department of the Environment, *Submission 185*, p. 13.

10 Department of the Environment, *Submission 185*, p. 13.

their purpose, or purposes, with one of these being a primary purpose.[11]

3.11 Where there is a lack of clarity in the organisation's founding documents, the Department may undertake additional research into the structure of the organisation and its history, including its public activities over time. Such additional research may include requesting further information from the applicant or conducting business searches through avenues such as the Australian Securities and Investments Commission (ASIC).[12]

3.12 The Environment Minister considers each application and certifies that the organisation is an environmental organisation, before forwarding the application to the Assistant Treasurer for consideration.[13]

3.13 After the Assistant Treasurer has approved the recommendation to be included on the Register, the ATO processes the application for endorsement as a deductible gift recipient (DGR) and notifies the organisation of their endorsement, if successful.[14]

3.14 Once an organisation is listed on the Register, the Department's role includes reviewing annual statistical returns provided by each environmental DGR, in accordance with an organisation's reporting obligations pursuant to the ITAA.[15]

3.15 However, in its submission, the Department indicated that the 13 environmental organisations listed individually by name in the ITAA—which obtained DGR endorsement prior to the establishment of the Register—are not subject to the reporting and compliance obligations of other environmental DGRs.[16]

3.16 The Department also noted that its powers in relation to these organisations are limited.[17]

3.17 Further evidence relating to the Department's compliance role is discussed in detail in Chapter 6.

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11 Ms Lara Musgrave, Assistant Secretary, Engagement and Evaluation, Department of the Environment, *Committee Hansard,* Canberra, 16 June 2015, p. 1.

12 Department of the Environment, *Submission 185*, p. 13; Mr Simon Writer, General Counsel, Department of the Environment, *Committee Hansard,* Canberra, 16 June 2015, p. 1.

13 Department of the Environment, *Submission 185*, Attachment D: 'Register of Environmental Organisations Guidelines', p. 4.

14 Department of the Environment, *Submission 185*, Attachment D: 'Register of Environmental Organisations Guidelines', p. 4.

15 ITAA, s. 30-270.

16 Department of the Environment, *Submission 185*, p. 6.

17 Department of the Environment, *Submission 185*, p. 6.

Administration of the Register

3.18 Representatives of organisations listed on the Register and other inquiry participants raised a number of concerns about the Department's administration of the Register, including:

- the timeliness of processing applications and responding to queries and correspondence;
- the transparency of the registration process; and
- the duplication and overlap of the registration and reporting process with other processes, including processes administered by the ACNC, ASIC, and state and territory regulatory bodies.

Timeliness

3.19 The Committee heard evidence from some individuals and organisations that the current regulatory system governing the granting of DGR status to environmental organisations was inefficient, costly, and prohibitive to smaller organisations.

3.20 For example, the Community Council for Australia noted that environmental organisations applying for both DGR status and charity status had to comply with three separate regulators—the Department, the ATO, and the ACNC—with approval needed from both the Environment Minister and the Assistant Treasurer. The Council argued that this process was prohibitive to smaller charities, given the time, legal advice, and other resources required.[18]

3.21 Mr David Crosbie, Chief Executive of the Council, contrasted the cost and time involved in seeking DGR status with the process of seeking charity status through the ACNC:

> In my organisation we were quoted over $30,000 and 12 months if we wanted to be [a] DGR. We are not going to spend over $30,000 and 12 months to become [a] DGR. We became a charity through the ACNC in less than a month …
>
> … I do not know them off the top of my head, but I would have thought that for almost every charity that applies the average amount of time to become a charity—because they talk you through and work you through things and provide draft legals

18 Community Council for Australia, *Submission 425*, p. 3.

> and draft constitutions and support, as a good regulator does—is less than a month.[19]

3.22 The Council of Heads of Australian Botanic Gardens Incorporated (trading as the Australian Seed Bank Partnership) submitted that the process of applying to be listed on the Register was lengthy and required regular follow-up with the Department to ascertain the status of the application. The organisation's application took about 10 months to process, and the organisation was not notified of its registration for a further two months.[20]

3.23 Dr Lucy Sutherland, National Coordinator of the Council, told the Committee that the organisation was initially advised that the application would be processed in three months. Dr Sutherland said that it would have helped if the organisation was advised of the expected delay, as this affected its ability to attract funding from funds and competitive grants requiring DGR status.[21]

3.24 Dr Sutherland also noted that, initially, the Department did not understand the nature of the work undertaken by the Council, and so the organisation had to explain to the Department how it met the principal purpose test.[22]

3.25 The Ecological Society of Australia advised that the organisation's registration took over a year from the initial application to being listed on the Register. Mrs Gail Spina, Executive Officer of the Society, suggested that lack of communication between the Department and the ATO and a 'lack of environmental understanding' or a lack of understanding of the nature of the work undertaken by the organisation, may have contributed to the delay.[23]

3.26 Mr Crosbie recalled a story from representatives of one organisation, who were informed they would have to wait another three months for the

19 Mr David Crosbie, Chief Executive, Community Council for Australia, *Committee Hansard*, Canberra, 18 September 2015, p. 44.

20 Council of Heads of Australian Botanic Gardens Inc. (trading as Australian Seed Bank Partnership), *Submission 100*, p. 1; Dr Lucy Sutherland, National Coordinator, Australian Seed Bank Partnership, Council of Heads of Australian Botanic Gardens Inc., *Committee Hansard*, Friday, 18 September 2015, Canberra, p. 39.

21 Dr Sutherland, Australian Seed Bank Partnership, Council of Heads of Australian Botanic Gardens Inc., *Committee Hansard*, Canberra, 18 September 2015, Canberra, p. 39. For another example, see: Mrs Gail Spina, Executive Officer, Ecological Society of Australia, *Committee Hansard*, Brisbane, 14 July 2015, p. 50.

22 Council of Heads of Australian Botanic Gardens Inc. (trading as Australian Seed Bank Partnership), *Submission 100*, p. 1; Dr Sutherland, Australian Seed Bank Partnership, Council of Heads of Australian Botanic Gardens Inc., *Committee Hansard*, Canberra, 18 September 2015, Canberra, pp. 38–39.

23 Mrs Spina, Ecological Society of Australia, *Committee Hansard*, Brisbane, 14 July 2015, p. 50.

application to be processed, because a departmental officer had taken leave.[24]

3.27 The Department advised that no specific service standards apply to processing applications for inclusion on the Register. Nevertheless, the Department maintains a Service Charter that applies to all administrative activities, including the administration of the Register. This Charter requires responses to correspondence within 20 working days after receipt, and if that is not possible, an acknowledgement should be sent within this timeframe indicating the expected date of reply.[25]

3.28 The Department informed the Committee that in the three years up to January 2016, the Department took an average of 11 months to process applications, from submission of the application to submission to the Environment Minister for consideration.[26] However, the Department did not provide the average time taken from the initial submission of an application, through to final approval and listing on the Register.

3.29 The Department also told the Committee that 1.5 ASL (average staffing level) was allocated to the administration of the Register (as at 17 July 2015).[27]

3.30 By contrast, the ACNC generally processes applications for registration as a charity within 28 days, if no further information is required.[28]

3.31 ATO case officers must have regard to their client service charter when assessing applications for DGR status. Specifically, officers must have regard to the standards established for providing 'private written advice' and aim to finalise applications containing complete information, or upon receipt of complete information, within 28 days. For all DGR applications received within 2009–10, the average elapsed time from receipt to completion was approximately 37 days (the average elapsed time for applications of 'fast-tracked cases' was 27 days).[29]

3.32 The Law Council of Australia submitted that a reasonable timeframe should be applied to the application process for the Register, so that

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24 Mr Crosbie, Community Council for Australia, *Committee Hansard*, Canberra, 18 September 2015, p. 44.

25 Department of the Environment, *Submission 185.2*, p. 2.

26 Department of the Environment, *Submission 185.2*, p. 2.

27 Department of the Environment, *Submission 185.1*, p. 1.

28 Australian Charities and Not-for-profits Commission (ACNC), 'The registration process and FAQs' <http://www.acnc.gov.au/ACNC/Register_my_charity/Start_Reg/Reg_process_FAQ/ACNC/Reg/Reg_process_FAQ.aspx> viewed 19 February 2016.

29 Australian National Audit Office, *Audit Report No. 52 2010–11*, *Administration of Deductible Gift Recipients (Non-profit Sector): Australian Taxation Office*, p. 78.

organisations could better plan their forward activities based on the resolution of that application.[30]

3.33 CORENA (Citizens Own Renewable Energy Network Australia Inc.) told the Committee:

> Since environmental issues are often time-sensitive, the Register could support environmental groups more effectively by simplifying the approval process and by processing applications promptly so that groups that meet the requirements of entry can achieve their environmental purpose sooner.[31]

Transparency

3.34 The Committee also heard evidence suggesting that transferring the administration of the Register from the Department to an impartial and independent entity would enhance the transparency of the application process.

3.35 The Not-for-profit Project of the University of Melbourne Law School submitted that the current system requiring ministerial approvals could be perceived as undermining the impartiality and integrity of the tax concession system.[32]

3.36 Dr Joyce Chia, representing the Not-for-profit Project, noted that requiring the approval of two ministers created a perception of political involvement, regardless of whether this was an accurate assessment.[33]

3.37 Dr Greg Ogle outlined the perceived bias inherent in the process:

> When you have the environment minister deciding it, there is a risk that environment groups will shift their practices to try and second-guess what the minister wants. At a minimum, there is a perception problem of political interference.[34]

3.38 The Community Council for Australia also considered it inappropriate for individual ministers to have the final say in determining charitable status or eligibility for DGR status.[35]

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30 Law Council of Australia, *Submission 662*, p. 11; Adjunct Professor Greg McIntyre, Chair, Australian Environment and Planning Law Group, Law Council of Australia, *Committee Hansard*, Canberra, 18 September 2015, p. 2.

31 CORENA, *Submission 23*, p. 2.

32 Not-for-Profit Project, University of Melbourne Law School, *Submission 220*, p. 4.

33 Dr Joyce Chia, former Research Fellow, Not-for-profit Project, University of Melbourne Law School, *Committee Hansard*, Melbourne, 22 September 2015, p. 14.

34 Dr Greg Ogle, private capacity, *Committee Hansard*, Canberra, 18 September 2015, p. 26.

35 Community Council for Australia, *Submission 425*, p. 4.

3.39 The Council proposed that the ACNC determine charitable status and make recommendations to the ATO regarding DGR eligibility, to create a more transparent, accountable and credible process. In the Council's view, this process would build public trust and confidence, while holding charities to higher standards of governance and reporting than the existing framework.[36]

3.40 The Australian Youth Climate Coalition (AYCC) submitted that the ACNC was an independent body, free of political interference, and therefore in a position to regulate and maintain the Register.[37] The Not-for-profit Project supported this proposal.[38]

3.41 Other transparency and accountability issues were raised in connection with the Department's administration of the Register. Some submitters argued that the current regulatory framework did not provide an appropriate level of transparency, because the statistical information provided annually to the Department was not made available to the public.[39]

3.42 The administration of the Register is subject to taxpayer confidentiality provisions that prohibit the disclosure of such statistical information provided to the Department.[40] These transparency issues are discussed further in Chapter 6.

Duplication of processes

3.43 The Committee heard a range of evidence outlining the duplication and overlap that existed between the process of seeking DGR endorsement through the Register, related registration processes, such as registration as a charity with the ACNC, and other regulatory requirements, such as registering with ASIC and state and territory regulatory authorities.

3.44 As noted in Chapter 2, approximately 75 per cent of the 596 organisations listed on the Register are also registered charities with the ACNC.[41]

3.45 The ACNC noted there were broad similarities between the requirements for eligibility for, and maintenance of, being listed on the Register to gain DGR status, and registration with the ACNC to gain charity status.[42] These

36 Community Council for Australia, *Submission 425*, p. 5.

37 Miss Kirsty Albion, National Director, *Committee Hansard*, Australian Youth Climate Coalition, Melbourne, 22 September 2015, p. 3.

38 Dr Chia, Not-for-profit Project, University of Melbourne Law School, *Committee Hansard*, Melbourne, 22 September 2015, p. 14.

39 For example, see: Senator Matthew Canavan, *Submission 493*, p. 23.

40 Department of the Environment, *Submission 185*, p. 20.

41 ACNC, *Submission 189*, pp. 4, 10.

42 ACNC, *Submission 189*, p. 8. These similarities are listed in detail on pp. 8-10.

similarities include the type of organisation; the purpose test required to be met under both schemes; and annual reporting requirements.[43]

3.46 ACNC Commissioner, Mrs Susan Pascoe AM, considered that the main argument for keeping registration for DGR status separate to the process for charity registration was that DGR status was administered by the ATO, rather than the ACNC. However, Mrs Pascoe noted that:

> … the ACNC operates in a streamlined process with the ATO for the application of all tax concessions, so we determine charitable status and then pass it immediately over to the ATO and to their various registers.[44]

3.47 As it currently stands, an environmental organisation registering as a charity may indicate their intention to also apply for DGR status. The organisation must then satisfy a number of threshold eligibility questions, which triggers the transfer of the applicant's registration data from the ACNC to the Department, to consider the organisation for listing on the Register. However, the organisation would then still need to be endorsed as a DGR by the ATO, in accordance with the process described earlier in this chapter.

3.48 Register administrators may limit the data required in the application process to information that has not already been collected by the ACNC.[45] The ACNC submitted that it was committed to working with the Department to further reduce the regulatory burden and improve administrative efficiencies for registered charities. At the time of submitting to the inquiry, the ACNC was consulting with the administrators of the various DGR registers on how processes could be further streamlined. In this inquiry, the ACNC recommended that it work with the Department to further progress work on alignment options to reduce red tape in the administration of the Register.[46]

3.49 Representatives of the Department confirmed they were in regular contact with the ACNC about streamlining processes and supported consideration being given to the ACNC administering the Register.[47]

3.50 Notwithstanding the streamlining that has so far occurred between the Department and the ACNC, the Committee heard evidence citing a

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43 ACNC, *Submission 189*, p. 9.

44 Mrs Susan Pascoe AM, Commissioner, ACNC, *Committee Hansard*, Canberra, 18 June 2015, p. 1.

45 ACNC, *Submission 189*, p. 13; Department of the Environment, *Submission 185*, p. 13.

46 ACNC, *Submission 189*, pp. 3, 13.

47 Department of the Environment, *Submission 185.2*, p. 5; Ms Lara Musgrave, Assistant Secretary, Engagement and Evaluation, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 3.

complex system which involved unnecessary duplication, costs, and administration.

3.51 Dr Joyce Chia, representing the Not-for-profit Project, submitted that the existence of a DGR register separate to registration as a charity created regulatory gaps:

> The sector is already quite confused about charitable status and DGR. They often think, if they have charitable status, that people can donate to them; they get even more confused when they realise there is another register that they have to sign up to with a different set of sanctions and a different set of reporting requirements. It is certainly duplicative, ineffective and inefficient...[48]

3.52 Mr Murray Baird, Acting Commissioner and General Counsel for the ACNC, told the Committee that requiring an organisation to register as a charity with the ACNC, as a prerequisite to applying for the Register, would reduce the duplication in administrative processes:

> I think that at the moment the challenge for some environmental charities is that they effectively have to double report and have double compliance obligations and double registration obligations.[49] So the prerequisite of registration as a charity would open the gateway to streamlining the process. Most of the functions would be achieved at the first gateway—becoming a charity—and the rest could be streamlined.[50]

3.53 Professor Ann O'Connell, also of the Not-for-profit Project , told the Committee that a streamlined process should retain the robustness and transparency of the framework:

> We do not want to do away with any reporting requirements, because transparency is important for integrity and for our revenue system.[51]

3.54 Dr Chia argued that the Register had been superseded by a more comprehensive system of regulation through the ACNC.[52] This view was echoed by others, who questioned the continuing need for the Register

48 Dr Chia, Not-for-profit Project, University of Melbourne Law School, *Committee Hansard*, Melbourne, 22 September 2015, p. 14.

49 Mr Murray Baird, Acting Commissioner and General Counsel, ACNC, *Committee Hansard*, Canberra, 26 November 2015, p. 3.

50 Mr Baird, ACNC, *Committee Hansard*, Canberra, 26 November 2015, p. 3.

51 Professor Ann O'Connell, Not-for-profit Project, University of Melbourne Law School, *Committee Hansard*, Melbourne, 22 September 2015, pp. 14-15.

52 Dr Chia, Not-for-profit Project, University of Melbourne Law School, *Committee Hansard*, Melbourne, 22 September 2015, p. 14.

given developments associated with the establishment of the charities regulator in recent years.

Proposals for reform

Eradicating duplication

3.55 As evidenced above, a number of organisations and individuals who participated in the inquiry argued that the process of seeking endorsement as a DGR through the Department and the ATO should be streamlined with the process for attaining charity status through the ACNC. It was argued that this streamlining would reduce duplication and increase transparency in the DGR application process.

3.56 As noted above, the Community Council for Australia submitted that the best way to reduce red tape while improving transparency and accountability would be to empower the ACNC to determine charitable status and make recommendations to the ATO on DGR eligibility.[53]

3.57 Mr David Crosbie, Chief Executive of the Council, told the Committee:

> It makes absolute sense to have all charities registered through the Australian Charities and Not-for-profits Commission. It makes absolutely no sense to have multiple levels of sub-ministerial decision making around whether somebody is a charity and whether they should get DGR [status]. The processes around that are an absolute mess.[54]

3.58 Mr Krystian Seibert, of Philanthropy Australia, told the Committee that moving the registers, including the Register of Environmental Organisations, under the supervision of the ACNC, together with the ATO, would be consistent with the management of most other DGR categories.[55]

3.59 Dr Greg Ogle submitted that the biggest improvement to efficiency would be to abolish the Register and have tax deductibility assessed by either the ATO or the ACNC, as was already the case for many non-environmental charities.[56] He reasoned that the ACNC, as the purpose-built regulator,

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53 Community Council for Australia, *Submission 425*, p. 5; Dr Chia, Not-for-profit Project, University of Melbourne Law School, *Committee Hansard*, Melbourne, 22 September 2015, p. 14.

54 Mr Crosbie, Community Council for Australia, *Committee Hansard*, Canberra, 18 September 2015, p. 43.

55 Mr Krystian Seibert, Policy and Research Manager, Philanthropy Australia, *Committee Hansard*, Melbourne, 22 September 2015, p. 38.

56 Dr Greg Ogle, *Submission 335*, p. 3.

and the ATO were better equipped and qualified to assess DGR status than the Environment Department and Minister.[57]

3.60 Professor Ann O'Connell, of the Not-for-profit Project, noted that placing environmental DGRs within the scope of the ACNC would enable a range of enforcement mechanisms that were not currently available to the Department.[58]

3.61 Issues of enforcement and compliance are discussed further in Chapter 6.

Requiring charity registration with the ACNC

3.62 As outlined in Chapter 2, for most general DGR categories, organisations must apply directly to the ATO to seek DGR endorsement.

3.63 For some categories of DGR, organisations must first register as a charity through the ACNC, as a prerequisite to seeking DGR endorsement through the ATO. For example, registration with the ACNC is currently required for organisations listed on the Register of Harm Prevention Charities and under the Overseas Aid Gift Deduction Scheme.[59]

3.64 The ACNC recommended that registration as a charity with the ACNC become a prerequisite for listing an organisation on the Register.[60] Mr Murray Baird, Acting Commissioner and General Counsel of the ACNC, advised the Committee that introducing this requirement would streamline registration, reporting, compliance, transparency, and data-sharing arrangements. In the ACNC's view, these functions did not need to be duplicated elsewhere.[61]

3.65 Mr Baird considered how the two registration processes would align, having regard to the current overlapping requirements:

> The definitions of environmental organisations for REO purposes and for our purposes under the Charities Act are closely aligned, and there is no serious conflict between those respective requirements …
>
> … There are clear criteria in the Charities Act about qualifications to become and remain a charity, including disqualifying purposes such as illegality and political purposes that the ACNC is bound to apply. Any other requirements could be set out for eligibility for subtype of environmental activity on the charities register or by

57 Dr Ogle, *Submission 335*, p. 3.

58 Professor O'Connell, Not-for-profit Project, University of Melbourne Law School, *Committee Hansard*, Melbourne, 22 September 2015, p. 13.

59 ACNC, *Submission 189*, pp. 4, 10.

60 ACNC, *Submission 189*, p. 3.

61 Mr Baird, ACNC, *Committee Hansard*, Canberra, 26 November 2015, p. 3.

way of special conditions to be set out in the tax act for eligibility for tax deductibility.[62]

3.66 It was noted that about 25 per cent of environmental DGRs (organisations listed on the Register) are not currently registered as charities with the ACNC. Mr Baird suggested, however, that few of these organisations would fall outside eligibility to be on the charity register.[63]

3.67 Dr Greg Ogle noted that there had been a lengthy process of informing organisations about the ACNC, its role, and regulatory requirements, which may account for some of the 25 per cent of organisations who had yet to register with the ACNC. Furthermore, Dr Ogle suggested that some organisations may no longer exist or be functioning, or may be in the 'far-flung bits of the environment movement who do not understand the requirements'.[64]

3.68 The AYCC supported consideration of a DGR scheme for environmental organisations administered by 'an effective collaboration of the ATO and the ACNC, independently of any government department'.[65]

3.69 The AYCC submitted that the endorsement and regulatory model used for public benevolent institutions and health promotion charities could be utilised for environmental organisations.[66]

3.70 To register as a health promotion charity, an organisation must be eligible to be registered as a charity under the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (ACNC Act) and have any of the charitable purposes outlined in section 12 of the *Charities Act 2013* (Cth). The organisation must then meet criteria outlined in section 25-5 of the ACNC Act, including being an 'institution whose principal activity is to promote the prevention or the control of diseases in human beings'.[67]

3.71 For health promotion charities and public benevolent institutions, the ACNC reviews the purposes and activities of each organisation and determines their entitlement to be registered in those categories. The ATO

62 Mr Baird, ACNC, *Committee Hansard*, Canberra, 26 November 2015, p. 1.

63 Mr Baird, ACNC, *Committee Hansard*, Canberra, 18 June 2015, pp. 4–5.

64 Dr Ogle, *Committee Hansard*, Canberra, 18 September 2015, p. 26.

65 Australian Youth Climate Coalition (AYCC), *Submission 359*, p. 7.

66 AYCC, *Submission 359*, p. 7.

67 *Charities Act 2013* (Cth), s. 12; *Australian Charities and Not-for-profits Commission Act 2012* (Cth), s. 25-5.
See also: ACNC, *Commissioner's Interpretation Statement: Health Promotion Charities*, p. 2; ACNC, 'Factsheet: Health Promotion Charities' <www.acnc.gov.au/ACNC/FTS/Fact_HPC.aspx> viewed 25 February 2016.

then assesses whether the organisation meets all other requirements for endorsement for the relevant tax concessions, such as DGR status.[68]

3.72 The Department supported consideration of streamlining options, including the proposal that the ACNC administer the Register.[69]

Committee comment

3.73 The Committee has heard evidence from a range of individuals, experts, and representatives of environmental DGRs and other organisations during the course of this inquiry.

3.74 Inquiry participants made a number of proposals for reform of the Register, with some suggesting the Committee consider broader reform of DGR status and tax concessions across the entire not-for-profit sector.[70]

3.75 However, the Committee has been tasked with inquiring into and reporting on the administration and transparency of the Register of Environmental Organisations.

3.76 Accordingly, any discussion of broader tax reform and reform of the regulation of the not-for-profit sector is outside of the terms of reference of this inquiry and outside of the purview of this Committee.

3.77 Based on evidence received during this inquiry, the Committee is of the view that a wider review of DGR endorsement processes would be timely and could lead to a range of benefits to the not-for-profit sector and government more broadly, including a reduction in red tape and unnecessary duplication of administrative processes.

3.78 Having regard to the terms of reference of this inquiry, there is overwhelming evidence that the current requirements for endorsement as a DGR and inclusion on the Register overlap significantly with the requirements for registration as a charity with the ACNC, in addition to other registration and regulatory frameworks that environmental DGRs operate within.

3.79 In the interests of removing unnecessary duplication and achieving efficiencies in processing applications for both charity and DGR status, the Committee supports the recommendation that registration as a charity through the ACNC be a prerequisite for obtaining DGR status as an

68 AYCC, *Submission 359*, p. 7; p. 29; Justice Connect, *Guide to Deductible Gift Recipient Status,* March 2014, p. 29.

69 Department of the Environment, *Submission 185.2*, p. 5.

70 For example, see: Not-for-profit Project, University of Melbourne Law School, *Submission 220*, p. 4.

environmental organisation. Furthermore, the Committee considers that the process of DGR endorsement should be transferred completely to the ATO.

3.80 Specifically, an environmental organisation seeking to obtain DGR status should be required to register with the ACNC as a charity with a purpose of 'advancing the natural environment'[71] before having its application for DGR endorsement assessed by the ATO.

3.81 Therefore, it is the Committee's view that the Register itself, and the role of the Department in the administration of the Register, would no longer be necessary. Accordingly, the Committee recommends that the Register be formally abolished as part of the transfer of administration from the Department to the ACNC and the ATO.

Recommendation 1

The Committee recommends that the Register of Environmental Organisations be abolished and that the administration process for endorsement as a Deductible Gift Recipient for environmental organisations be transferred wholly to the Australian Taxation Office.

Recommendation 2

The Committee recommends that registration as an environmental charity through the Australian Charities and Not-for-profits Commission be a prerequisite for environmental organisations to obtain endorsement as a Deductible Gift Recipient by the Australian Taxation Office.

3.82 Given the role and powers of the ACNC and the ATO, as outlined in this report, together these recommendations would streamline administrative processes whilst retaining a framework that is robust, accountable, and transparent.

3.83 Furthermore, given the evidence provided to the Committee regarding the timeliness of the application processes through the ACNC and the ATO, in contrast with the administration of the Register by the Department, the

71 *Charities Act*, s. 12(1)(j).

Committee is confident that these recommendations would result in a streamlined application process for environmental organisations seeking DGR endorsement.

3.84 Upon implementation, the Committee expects the ACNC and the ATO to require each organisation currently on listed the Register to undertake a rigorous assessment process to ensure compliance with these new arrangements.

3.85 The Committee notes that the requirement for environmental charities to 'advance the natural environment' includes 'protecting, maintaining, supporting, researching, and improving' the natural environment.[72] The Committee considers that this definition largely encompasses the features of the principal purpose test currently required to be met by organisations seeking inclusion on the Register.

3.86 Similarly, the Committee notes evidence from the ACNC indicating that the majority of the 25 per cent of environmental DGRs not currently registered as charities would be eligible for registration. The Committee is therefore satisfied that the proposed reforms would not unduly disadvantage many active environmental DGRs.

3.87 To further streamline administrative arrangements, and to improve the consistency and transparency of access to tax-deductible donations, the Committee considers that environmental organisations listed by name in the ITAA should be required to obtain DGR endorsement through the same process as other organisations.

3.88 The Committee sees no reason for the treatment of these organisations to be different from that of other environmental DGRs. This recommendation would therefore bring all environmental DGRs under a common reporting and compliance framework (see Chapter 6). Of course, care would need to be taken in relation to the timing of the implementation of this recommendation. Transitional arrangements would be required to ensure that organisations currently listed in the ITAA would have ample opportunity to seek endorsement as a DGR under the new regulatory framework, before being removed from the ITAA.

72 *Charities Act*, s. 3.

Recommendation 3

The Committee recommends that the Treasurer and the Minister for the Environment pursue amendments to the *Income Tax Assessment Act 1997* (Cth) to remove environmental Deductible Gift Recipients listed individually by name in the Act.

3.89 Lastly, to ensure that the availability of tax-deductible donations to environmental organisations remains transparent, the Committee recommends that the ATO maintain on its website a publicly available list of environmental organisations that receive DGR endorsement after obtaining charity status under the environmental subtype. The list should be updated as required and should include, at a minimum, the name of each organisation's public fund and the date on which it received DGR endorsement.

3.90 The Committee notes that this level of transparency is consistent with the publication of the Register by the Department.

Recommendation 4

The Committee recommends that the Australian Taxation Office maintain a publicly available list of organisations that receive Deductible Gift Recipient endorsement as an environmental charity.

4

Activities undertaken by environmental deductible gift recipients

4.1 During the inquiry, the Committee received extensive evidence about a wide range of activities undertaken by environmental deductible gift recipients (DGRs).

4.2 Broadly speaking, the activities of environmental DGRs can be summarised under four categories, which are discussed in this chapter:

- environmental remediation;
- education and research;
- policy advocacy and representation; and
- other activities including those carried out overseas.

4.3 The Committee was interested to learn more about these activities and undertook various site inspections across the country. Organisations that facilitated site inspections are listed in Chapter 1. Evidence gathered during these site inspections is also reflected throughout this chapter.

4.4 The Committee also received evidence about community engagement with the work of environmental DGRs—through volunteering, for example—and heard some concerns about the activities of environmental DGRs. This evidence will be discussed in the following chapter.

Environmental remediation

4.5 The Committee heard from a large number of environmental DGRs involved in the delivery of activities to remediate environmental damage—from weed management to landscape-scale revegetation.

4.6 For example, Conservation Volunteers Australia outlined the range of activities undertaken by its volunteers, including tree planting, invasive

weed control, wildlife surveying to assist with threatened species management, track and boardwalk restoration, native seed collection, signage and interpretation, erosion and salinity control, and flora and fauna monitoring.[1]

4.7 Similarly, Landcare Tasmania described the broad range of activities delivered by community Landcare groups under its philanthropic program, including revegetation activities to enhance wildlife habitat, soil conservation to prevent and mitigate erosion, removal of pest plant and animal species, fencing remnant vegetation from a range of threats, and water quality initiatives in riparian areas.[2]

4.8 In its submission to the inquiry, Landcare Tasmania noted the role of the community Landcare movement in achieving environmental outcomes such as protection of habitat for biodiversity, mitigation of climate change and climate variability, and improvements to water quality.[3]

4.9 To see an example of environmental remediation firsthand, the Committee travelled to the Meander River catchment near Launceston to inspect a river recovery project funded by Landcare Tasmania. The project involved the excavation and incineration of willow and other invasive species, which have displaced native vegetation along the river.

4.10 At the site, the Committee heard evidence about the environmental outcomes of the project, including reduced erosion, improved river flow and water quality, and establishment of new habitat for native wildlife. These outcomes were achieved in a cost-effective manner with the support of volunteers and in partnership with farmers and local landholders.

4.11 The Committee also travelled to Murray Bridge near Adelaide, where it inspected a community nursery operated by the Eastern Hills and Murray Plains Catchment Group. In its submission, the organisation described its work as 'practical action to both improve skills and outcomes for biodiversity and natural resource management'.[4]

4.12 At the site, the Committee heard how the organisation supplied native seedlings to the local council and other environmental organisations for use in revegetation projects, including revegetation of former agricultural land at the nearby Monarto Zoo. The Committee also heard how the organisation provided training in conservation and land management to its volunteers, including participants in the Green Army program.

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1 Conservation Volunteers Australia, *Submission 289*, p. 1.

2 Landcare Tasmania, *Submission 433*, p. 5.

3 Landcare Tasmania, *Submission 433*, p. 1.

4 Eastern Hills and Murray Plains Catchment Group Inc., *Submission 434*, p. 1.

Education and research

4.13 In addition to the organisations undertaking environmental remediation, the Committee heard from environmental DGRs providing information and education to the public about environmental issues, or supporting research into aspects of the natural environment.

4.14 For example, at the Centre for Education and Research in Environmental Strategies (CERES) in Melbourne, the Committee heard about education, outreach, and training programs designed to build skills and knowledge about environment issues and sustainable practices. In its submission, CERES explained that more than one million school students have participated in its environmental education programs.[5]

4.15 In its submission to the inquiry, the Ecological Society of Australia described its focus on facilitating high-quality environmental research and promoting the application of ecological principles to the development, utilisation, and conservation of natural resources.[6]

4.16 Associate Professor Nigel Andrew, President of the Society, explained how the organisation prepares evidence-based fact sheets on a range of environmental issues:

> … we are also promoting ecological research to the public, so we do the research and we interpret the research. … we take it from, I guess, the scientific language and … put it into a form that can be interpreted by the general public.[7]

4.17 Professor Andrew also emphasised the role of research in informing on-ground environmental work:

> We are trying to give [people working in the environment] the information so, if they are revegetating a mine site, they know the best and most appropriate species to put there. Also—if they are managing an area that needs to be managed, so, basically, a fence has been put around it—how they manage it to assess the diversity in the area or manage it properly.[8]

4.18 Similarly, the Great Barrier Reef Foundation submitted that the research it funds responds to the needs of reef managers:

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5 Centre for Education and Research in Environmental Strategies Inc., *Submission 373*, p. 2.

6 Ecological Society of Australia, *Submission 349*, pp. 2–3.

7 Associate Professor Nigel Andrew, President, Ecological Society of Australia, *Committee Hansard*, Brisbane, 14 July 2015, p. 49.

8 Associate Professor Andrew, Ecological Society of Australia, *Committee Hansard*, Brisbane, 14 July 2015, p. 49.

> The Foundation primarily funds research programs that deliver data, information and knowledge that is relevant and accessible to reef managers, policy-makers, and other end-users.[9]

4.19 During a visit to the Australian Institute of Marine Science, the Committee heard about the Foundation's involvement in the eReefs project, which involves developing a framework to link land management activities in catchments to water quality and ecological responses. The project is designed to assist regulatory authorities, natural resource management groups, and other stakeholders.[10]

4.20 Ms Claire Hanratty, Managing Director of the Foundation, explained the organisation's role in the eReefs project:

> Our role … is to catalyse that project to bring together the Bureau of Meteorology, the Australian government, the Queensland government, the CSIRO, and the Australian Institute of Marine Science as the delivery parties of that project, and to bring private sector funding to that project through BHP Billiton Mitsubishi Alliance.[11]

Policy advocacy and representation

4.21 Many submissions to the inquiry focused on the advocacy role of environmental DGRs. Based on the evidence received, this role encompasses a diverse range of activities, including representation of member organisations, providing input into the policy development process, making representations to legislators and local representatives, and public campaigning in relation to environmental matters.

4.22 The Committee heard from several peak environmental organisations about their role in representing the interests of their member groups. For example, Mr Mark Ritchie, Executive Officer of Landcare Tasmania, described how the organisation provides an independent, representative voice for Landcare groups:

> … our mission is really to promote community Landcare, connect people and organisations within that Landcare space, support our Landcare movement, and represent them as an advocacy body.[12]

9 Great Barrier Reef Foundation, *Submission 279*, p. 3.

10 eReefs Collaboration, 'eReefs' <http://ereefs.org.au/ereefs> viewed 18 January 2016.

11 Ms Claire Hanratty, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, Brisbane, 14 July 2015, p. 34.

12 Mr Mark Ritchie, Executive Officer, Landcare Tasmania, *Committee Hansard*, Hobart, 21 July 2015, p. 25.

4.23 Mr Ritchie went on to outline some of the practical ways in which Landcare Tasmania supports its member groups:

> We provide a range of membership services to our groups, and that includes strategic planning, administrative support, and auspicing and supporting non-incorporated groups to deliver projects and funding. We also provide an insurance scheme for our volunteers so that they can operate with public liability and volunteer insurance as well.[13]

4.24 Ms Katherine Smolski, Chief Executive Officer of the Nature Conservation Council of NSW, described how the organisation provides information to its member groups and supporters to enable them to understand and participate in policy development and law reform processes.[14]

4.25 Conversely, Mr Larry O'Loughlin, Assistant Director of the Conservation Council ACT Region, stated that the organisation draws on the collective knowledge of its member groups to advocate for environmental policies.[15]

4.26 The Committee also heard evidence from several environmental DGRs about their role as representatives on statutory boards and committees.[16]

4.27 Several organisations provided examples of how advocacy work had influenced the development of environmental policy. For example, Mr Piers Verstegen, Director of the Conservation Council of Western Australia, explained how the organisation had successfully advocated for additional environmental regulation in Western Australia:

> When the relatively smaller number of organisations originally came together to form the Conservation Council, one of the things they were very concerned about was that the state did not have any stand-alone pollution control regulation. We did not have any stand-alone environmental impact assessment process or agency to conduct that. They embarked on a program of representation and advocacy and community awareness raising to support that being adopted by the state government, and eventually it was.[17]

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13 Mr Ritchie, Landcare Tasmania, *Committee Hansard*, Hobart, 21 July 2015, p. 25.

14 Ms Katherine Smolski, Chief Executive Officer, Nature Conservation Council of NSW, *Committee Hansard*, Sydney, 17 November 2015, p. 13.

15 Mr Larry O'Loughlin, Assistant Director, Conservation Council ACT Region, *Committee Hansard*, Canberra, 18 September 2015, p. 27.

16 For example, see: Conservation Council of South Australia, *Submission 424*, p. 3; Mr Piers Verstegen, Director, Conservation Council of Western Australia, *Committee Hansard*, 3 September 2015, p. 5; Ms Christine Goonrey, Vice President, National Parks Association of the ACT Inc., *Committee Hansard*, Canberra, 18 September 2015, p. 11.

17 Mr Piers Verstegen, Director, Conservation Council of Western Australia, *Committee Hansard*, Perth, 3 September 2015, p. 5.

4.28 Similarly, in its submission to the inquiry, the Wentworth Group of Concerned Scientists described how the organisation's policy advocacy had contributed to the development of the Murray Darling Basin Plan.[18]

4.29 Much of the evidence in relation to advocacy emphasised the 'mutually supportive' relationship between policy advocacy and representation and the other activities undertaken by environmental DGRs.[19]

4.30 The Hon. David Harper AM QC submitted that advocacy is often necessary to create the conditions for environmental work, such as remediation, to be effective:

> While nature conservation activities, such as tree-planting, have great value to the environment, they exist within a broader social, political and regulatory context; and sometimes advocacy is necessary before such essentials as supporting legislation or funding can be put in place.[20]

4.31 This perspective was supported by the Conservation Council of South Australia. However, the organisation also submitted that its advocacy work is informed by its environmental work in the field:

> Protection of the environment is not something that can be achieved by practical on-ground action alone; you need policies to support them and give them a lasting legacy, and you need regulation, incentives and a range of other tools. Supportive policy is frequently a product of advocacy. Equally, our advocacy and community education are strongly informed by our hands-on work in the field.[21]

4.32 Some stakeholders also submitted that advocacy is, in some cases, a more efficient method of achieving environmental outcomes than remediation. For example, Ms Karen Alexander, Vice President of the Farm Tree and Landcare Association, discussed the example of land clearing as a cause of habitat loss and land degradation:

> Landcare groups are starting to say: 'We want to prevent that cause. We want to reduce that cause. We are not just here to cure it.' The issues have expanded to prevention. It is far more efficient to prevent the problem than it is to come in later and cure it.[22]

18 Wentworth Group of Concerned Scientists, *Submission 272*, p. 3.

19 Mr Larry O'Loughlin, Assistant Director, Conservation Council ACT Region, *Committee Hansard*, Canberra, 18 September 2015, p. 27.

20 The Hon. David Harper AM QC, *Submission 59*, p. 1.

21 Mr Craig Wilkins, Chief Executive, Conservation Council SA, *Committee Hansard*, Adelaide, 1 September 2015, pp. 1–2.

22 Ms Karen Alexander, Vice President, Farm Tree and Landcare Association, *Committee Hansard*, Melbourne, 21 September 2015, p. 37.

4.33 Further to this evidence, some stakeholders submitted that advocacy and participation in the policy process might be the only effective response to particular environmental issues. Dr Joyce Chia, representing the Not-for-profit Project with the University of Melbourne Law School, explained:

> If you are interested in climate change, you cannot just plant trees; to fulfil your purpose would, in many cases, require a degree of engagement with the political process.[23]

4.34 Similarly, Mr Paul Sullivan, Chief Executive Officer of BirdLife Australia, emphasised the essential role of advocacy in cases where threatened species might be affected by government policies:

> There are some issues where public policy engagement and advocacy is the only thing we can do to try to get governments to adopt strategic burning in areas that are sensitive to threatened species. We cannot do anything else.[24]

4.35 Some inquiry participants raised concerns about the advocacy undertaken by some environmental DGRs. These concerns are outlined in Chapter 5 (in particular, paragraphs 5.31 to 5.57).

Other activities

4.36 The Committee also heard from environmental DGRs undertaking a variety of other activities, including: land conservancy and covenanting; rehabilitation of native wildlife; law advocacy and legal representation; and the protection of endangered species in other countries.

Land conservancy

4.37 Several environmental DGRs described their involvement in acquiring and managing land of high conservation value or partnering with private landholders to improve conservation outcomes.

4.38 For example, in its submission, The Nature Conservancy explained how the organisation has supported the conservation of nationally-important properties with under-represented ecosystems and habitat for a range of threatened species:

> With partner organisations and the Australian Government we have directly funded the acquisition or management of 29

23 Dr Joyce Chia, former Research Fellow, Not-for-profit Project, University of Melbourne Law School, *Committee Hansard*, Melbourne, 22 September 2015, p. 15.

24 Mr Paul Sullivan, Chief Executive Officer, BirdLife Australia, *Committee Hansard*, Melbourne, 21 September 2015, pp. 26–27.

> properties covering 3.55 million ha, including some of Australia's largest privately-funded protected areas.[25]

4.39 The Queensland Trust for Nature outlined how it operates a revolving fund to purchase and then on-sell land after establishing a covenant, or conservation agreement, in perpetuity:

> … the conditions of that agreement usually involve management conditions specific to whether it is a certain type of ecosystem or species. It may be an endangered turtle, and we talk about activities that can take place in nesting areas … So the agreements are specific to the parcel of land that we are protecting.[26]

4.40 Similarly, Bush Heritage Australia and the Tasmanian Land Conservancy explained how the Midlands Conservation Fund was established to fund stewardship agreements with landholders to safeguard remnant native grasslands and woodlands on private land.[27]

4.41 At a public hearing, Dr Sally Bryant, Acting Chief Executive Officer of the Conservancy, emphasised that the work of the organisation involved a broad range of activities, including on-ground work such as weeding, pest control, and monitoring, as well as public education and promotional work.[28]

Wildlife rehabilitation

4.42 The Committee heard evidence from a number of environmental DGRs that operate wildlife shelters or wildlife rescue facilities.

4.43 For example, in its submission to the inquiry, Native ARC explained how its activities involve the treatment and rehabilitation of sick and injured native wildlife. At its rehabilitation centre, the organisation operates an all-hours service at no charge to the public. Approximately 2,500 animals are admitted to the centre annually.[29]

4.44 During its program of site inspections in Perth, the Committee visited the rehabilitation centre and learned about the process of treating animals for release into the wild. The Committee also heard about the organisation's education, training, and corporate volunteering programs.

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25 The Nature Conservancy, *Submission 406*, p. 1.

26 Ms Tanya Pritchard, Conservation Officer, Queensland Trust for Nature, *Committee Hansard*, Brisbane, 14 July 2015, p. 21.

27 Tasmanian Land Conservancy, *Submission 327*, p. 2; Bush Heritage Australia, *Submission 408*, p. 1.

28 Dr Sally Bryant, Acting Chief Executive Officer, Tasmanian Land Conservancy, *Committee Hansard*, Hobart, 21 July 2015, p. 18.

29 Native ARC Inc., *Submission 564*, p. 1.

Environmental law advocacy

4.45 The Committee received evidence from several environmental DGRs providing legal advice and representation, and engaging in advocacy in relation to environmental law.

4.46 In its submission to the inquiry, the Australian Network of Environmental Defenders Offices (EDOs of Australia) explained that its community legal centres provide a range of services in relation to the spectrum of state and federal environmental and planning laws, including education programs to facilitate public participation in environmental decision-making and policy development and law reform work.[30]

4.47 The organisation also outlined its involvement in providing legal advice and representation in public interest litigation on environmental matters. For example, in 2013–14 its NSW office provided advice over the phone to 1,029 clients and written advice to 205 clients, and represented 10 clients in litigation matters.[31]

4.48 At a public hearing of the inquiry, representatives of EDOs of Australia stated that 'ensuring that environmental laws are strong, comprehensible, and applied' is 'a vital component of the range of activities that contribute to on-ground environmental outcomes'.[32]

4.49 Similarly, the Tarkine National Coalition submitted that its involvement in litigation matters is consistent with its role of advocating for the protection of the natural environment.[33]

Overseas activities

4.50 Lastly, the Committee heard from several environmental DGRs whose activities involve the protection of endangered species in other countries.[34]

4.51 In 2013–14, organisations were asked by the Department of the Environment (the Department) to report on the percentage of expenditure supporting activities conducted outside Australia. Of the 48 organisations that reported conducting overseas activities, 16 organisations allocated more than 75 per cent of their expenditure overseas.[35]

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30 EDOs of Australia, *Submission 403*, pp. 20–28.

31 EDOs of Australia, *Submission 403*, p. 24.

32 Ms Rachel Walmsley, Policy and Law Reform Director, EDO New South Wales, EDOs of Australia, *Committee Hansard*, Sydney, 17 November 2015, p. 36.

33 Tarkine National Coalition, *Submission 181*, p. 2.

34 For example, see: The Orangutan Project, *Submission 254;* Wildlife Asia, *Submission 277*; Painted Dog Conservation Inc., *Submission 324*.

35 Department of the Environment, *Submission 185*, p. 10.

4.52 In its submission to the inquiry, The Orangutan Project outlined how the organisation funds projects in Indonesia to support species conservation and rainforest protection.[36]

4.53 Mr Leif Cocks, President of The Orangutan Project, explained how he inspects each of the organisation's projects to evaluate the results:

> If we have a rescue unit, are orangutans being rescued? … If we have a wildlife protection unit, are they protecting the forest? Using satellite imaging and drone flights we check: are the trees still there or not; are the camera traps picking up tigers in abundance still, or have the tigers disappeared because the wildlife protection unit has not been effective?[37]

4.54 The Orangutan Project also submitted that activities directed at the protection of animals in their natural environment in other countries benefit environmental protection in Australia:

> Such activities acknowledge, draw attention to, and reinforce the interdependencies between environments … In other words, in an interdependent world, protecting environments in other countries can over time have a direct impact on Australia's environment. This is particularly true when the environments are 'global commons' such as rainforest and oceans.[38]

4.55 The Department noted that current guidelines and legislation do not restrict the activities of environmental DGRs to those conducted within Australia.[39] However, in a supplementary submission to the inquiry, the Department advised that the Australian Government intends to legislate to require DGRs to operate principally in Australia.[40]

Scope of the principal purpose test

4.56 As discussed throughout this chapter, the Committee received evidence about a wide range of activities undertaken by environmental DGRs.

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36 The Orangutan Project, *Submission 254*, pp. 2–3.

37 Mr Leif Cocks, President, The Orangutan Project, *Committee Hansard*, Perth, 3 September 2015, p. 10.

38 The Orangutan Project, *Submission 254*, pp. 3–4.

39 Department of the Environment, *Submission 185*, p. 10.

40 Department of the Environment, *Submission 185.2*, p. 6; Senator the Hon. Arthur Sinodinos, Assistant Treasurer, 'Integrity restored to Australia's taxation system', *Media Release*, 14 December 2013.

4.57 The diversity of environmental DGRs was noted by representatives of the Department, who suggested that this was illustrative of the breadth of the principal purpose test.[41]

4.58 As outlined in Chapter 2, the *Income Tax Assessment Act 1997* (Cth) requires that environmental DGRs have a principal purpose of:

- the protection and enhancement of the natural environment or of a significant aspect of the natural environment; or
- the provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment.

4.59 It was suggested by some stakeholders that it was appropriate for the relevant test in legislation to relate to the purpose of an organisation and not its activities. Professor James Goodman explained:

> The public benefit of environmental organisations rests in their purpose, that is, to advance the 'protection of the environment', not in how they seek to achieve that purpose.[42]

4.60 However, the Committee heard concerns from other stakeholders about some of the activities that environmental DGRs undertake to further their principal purpose. This evidence is discussed in detail in Chapter 5.

4.61 Stakeholders also expressed concern about the lack of clarity surrounding the Department's interpretation of the principal purpose test. For example, Senator Matthew Canavan argued that the Department's interpretation of the 'information, education, or research' provision is not well explained.[43] Senator Canavan recommended additional guidance to set out activities that are both eligible and ineligible under this provision:

> I think that with more detailed guidelines and explanations of [terms contained in the principal purpose test] we would have a Register that would be better focused on providing support to organisations that do have an environmental purpose, be that on-the-ground activity or education or research.[44]

4.62 EDOs of Australia submitted that the Department's interpretation of the 'natural environmental' should evolve with contemporary understanding of environmental issues and the modification of the Australian landscape, and could be updated to include the built environment and heritage.[45]

41 Mr Simon Writer, General Counsel, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 13.

42 Associate Professor James Goodman, *Submission 175*, p. 4.

43 Senator Matthew Canavan, *Submission 493*, pp. 23–26.

44 Senator Matthew Canavan, *Committee Hansard*, Brisbane, 14 July 2015, p. 13.

45 EDOs of Australia, *Submission 403*, p. 12; Law Council of Australia, *Submission 662*, pp. 4–5.

4.63 Several submissions argued that the principal purpose test should be amended to make it consistent with the decision in 2010 of the High Court of Australia in *Aid/Watch Incorporated v Commissioner of Taxation*.[46]

4.64 The Law Council of Australia explained the implications of the decision:

> The High Court recognised that in a representative democracy, activities that 'agitate' for legislative or policy change serve a public benefit. Where those activities seek to further a charitable purpose, the advocacy activities are a legitimate extension of the activities of a charitable organisation.[47]

4.65 The judgement was subsequently reflected in the *Charities Act 2013* (Cth), which recognises that charities can have a sole purpose of 'promoting or opposing a change to any matter established by law, policy or practice in the Commonwealth, a State, a Territory or another country'.[48]

4.66 The Law Council of Australia argued that the *Aid/Watch* decision is relevant to the administration of DGR status.[49]

4.67 Similarly, Professor James Goodman submitted that the *Aid/Watch* decision established that the constitutional right to freedom of political communication applies to the availability of tax concessions for non-government organisations, and should therefore apply to DGR status. However, Professor Goodman also noted that this had not been tested.[50]

4.68 It was noted in evidence that the explicit inclusion of advocacy in the principal purpose test for environmental DGRs would not necessarily broaden the scope of the test, but it would provide certainty to DGRs engaged in advocacy in relation to environmental matters.[51]

4.69 Consistent with this evidence, numerous submissions to the inquiry recommended that advocacy and related activities continue to be recognised as being consistent with the existing principal purpose test.[52]

4.70 Some stakeholders suggested that environmental DGRs be required to undertake particular activities. For example, the Queensland Resources Council submitted that a proportion of the activities and expenditure of

46 Aid/Watch Incorporated v Commissioner of Taxation (2010) 241 CLR 539; Public Law and Policy Research Unit, University of Adelaide, *Submission 40*, p. 5; Associate Professor James Goodman, *Submission 175*, p. 4; Aid/Watch, *Submission 576*, p. 5.

47 Law Council of Australia, *Submission 662*, p. 6.

48 *Charities Act 2013* (Cth), s. 12(1).

49 Law Council of Australia, *Submission 662*, p. 6.

50 Associate Professor James Goodman, *Submission 175*, p. 2–3.

51 Mr Gareth Bryant, Committee of Management Representative, Aid/Watch, *Committee Hansard*, Sydney, 17 November 2015, pp. 29–30; Associate Professor James Goodman, private capacity, *Committee Hansard*, Sydney, 17 November 2015, p. 33.

52 For example, see: EDOs of Australia, *Submission 403*, p. 9.

environmental DGRs be directed towards 'genuine on-the-ground conservation work'.[53]

4.71 Similarly, the Energy Resource Information Centre submitted that DGR status should recognise 'work performed in the community with direct benefit to the community'. The organisation recommended that environmental DGRs be required to spend a proportion of donated funds on 'actual physical works in natural environs'.[54]

4.72 Some stakeholders suggested that the Committee consider the restrictions applied to the activities of Canadian charities.[55] In Canada since 2003, a charity is required to spend no more than 10 per cent of its resources on 'political activity', with slightly higher limits for smaller charities.[56]

4.73 The Public Law and Policy Research Unit of the University of Adelaide explained the Canadian Charities Directorate's guidance on the matter:

> … the guidance provides that 'political activity' is confined to explicit communications either relating to contacts with or pressure on officials, or explicit communications to the public of an organisation's stance on an issue.[57]

4.74 The Public Law and Policy Research Unit also noted some criticism of the Canadian approach, which included that it could be difficult for charities to determine whether a particular activity would be considered charitable or political and that resources may be diverted away from charitable work to reporting and compliance activities.[58]

4.75 These concerns were reiterated by several other stakeholders, who noted that restrictions based on particular activities could involve a significant reporting and compliance burden and be difficult to achieve in practice.[59]

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53 Mr Michael Roche, Chief Executive, Queensland Resources Council, *Committee Hansard*, Brisbane, 14 July 2015, p. 2.

54 Energy Resource Information Centre, *Submission 577*, pp. 1–3.

55 For example, see: Australian Taxpayer's Alliance, *Submission 492*, pp. 5–6; Minerals Council of Australia, *Submission 497*, p. 29.

56 Public Law and Policy Research Unit, University of Adelaide, *Submission 40.1*, pp. 4–5; Department of the Environment, Submission 185.1, pp. 9–10; EDOs of Australia, *Submission 403*, p. 17; Law Council of Australia, *Submission 662*; p. 10.

57 Public Law and Policy Research Unit, University of Adelaide, *Submission 40.1*, pp. 4–5.

58 Public Law and Policy Research Unit, University of Adelaide, *Submission 40.1*, pp. 5–6;

59 For example, see: Mr Paul Sullivan, Chief Executive Officer, BirdLife Australia, *Committee Hansard*, Melbourne, 21 September 2015, p. 25; Ms Karen Alexander, Vice President, Farm Tree and Landcare Association, *Committee Hansard*, Melbourne, 21 September 2015, pp. 36–37; Professor Ann O'Connell, Not-for-profit Project, University of Melbourne Law School, *Committee Hansard*, Melbourne, 22 September 2015, p. 13.

Committee comment

4.76 During the course of the inquiry, the Committee has received extensive evidence from a large number of environmental DGRs about their activities.

4.77 The Committee acknowledges the significant and ongoing contribution of environmental DGRs to the protection and enhancement of the natural environmental in all states and territories across Australia.

4.78 It is clear from the evidence presented to the Committee that a diverse range of activities contribute to meaningful and lasting environmental outcomes, and that environmental DGRs typically undertake a number of different activities to further their principal purpose. In particular, the Committee notes the evidence from environmental DGRs about the mutually supportive relationship between advocacy and other activities, such as environmental remediation work.

4.79 Having regard to the terms of reference of the inquiry, the Committee is of the view that the purpose of granting DGR status to environmental organisations should be to support practical environmental work in the community.

4.80 While acknowledging the benefits of a diverse range of environmental work, the Committee wishes to ensure that the concessions conferred on environmental DGRs are directed, at least in some part, at environmental work that achieves clear on-ground environmental outcomes.

4.81 The Committee therefore supports the proposition that environmental DGRs should, as a condition of attracting DGR status, be required to undertake a mix of activities, and that this mix should include practical environmental work such as remediation.

Recommendation 5

The Committee recommends that legislative and administrative changes be pursued by the Australian Taxation Office to require that the value of each environmental deductible gift recipient's annual expenditure on environmental remediation work be no less than 25 per cent of the organisation's annual expenditure from its public fund.

4.82 The Committee accepts that definitional issues may arise from this recommendation, and will need to be addressed by government. To assist with this, the Committee's view is that activities that should qualify as

remediation work include revegetation, wildlife rehabilitation, plant and animal pest control, land management, and covenanting.

4.83 On the other hand, the Committee's view is that activities such as education, research, advocacy, legal services, activities involved in representing member organisations, and activities carried out overseas should not qualify as remediation work.

4.84 Expenditure applied directly to remediation work should qualify, as well as ancillary activities that support remediation, in so far as those activities are necessary to the carrying out of remediation work (for example, administrative work to secure necessary permits).

4.85 Environmental DGRs may also provide funding to other environmental organisations to undertake remediation work in order to meet this requirement. However, to maintain the integrity of the system, it is the Committee's view that only funding to other environmental DGRs should qualify and all funding arrangements should comply with the no-conduit policy (see Chapter 6).

4.86 The Committee expects that environmental DGRs would be required to report on their expenditure to the Australian Taxation Office on an annual basis to demonstrate compliance with this requirement. The Committee acknowledges that this may involve a period of adjustment for some organisations.

4.87 In making this recommendation, the Committee anticipates that such a requirement would not restrict the freedom of environmental DGRs to engage in advocacy or public debate, nor would it exclude organisations engaging in these activities from attracting DGR status.

5

Community engagement with environmental deductible gift recipients

5.1 As discussed in the previous chapter, the Committee received evidence about a wide range of activities undertaken by environmental deductible gift recipients (DGRs).

5.2 The Committee was also interested to hear about the role of tax-deductible donations in supporting the work of environmental DGRs, in addition to the contribution of volunteers and the nature of engagement between environmental DGRs and the community more generally. Evidence in relation to these matters is discussed throughout this chapter.

5.3 This chapter also considers the evidence received by the Committee about community concerns with the activities of some environmental DGRs.

Donations to environmental DGRs

5.4 As outlined in Chapter 2, there are 596 organisations listed on the Register. The number of organisations on the Register has increased steadily over time, although the rate of increase has slowed during the past four years.[1]

5.5 Since the introduction of the Register in 1992–93 until 2013–14, environmental DGRs reported collecting a total of over $1.3 billion in donations.[2]

5.6 During the 2013–14 financial year, three quarters of environmental DGRs collected less than $100,000 in donations each, and one quarter collected less than $1,000. Fewer than five per cent of environmental DGRs collected

1 Department of the Environment, *Submission 185*, p. 9.

2 Department of the Environment, *Submission 185*, p. 9.

over $1 million in donations each. However, the 30 largest environmental DGRs (measured by donations) collected 83 per cent of total donations.[3]

5.7 Some organisations indicated that tax-deductible donations constitute the majority of their income. Greenpeace Australia Pacific Limited—which does not accept funding from corporations or governments—submitted that, in the last calendar year, 95 per cent of its funding was raised from donations from more than 65,000 members of the public.[4] Similarly, The Wilderness Society submitted that around 90 per cent of its income was raised from donations from around 45,000 members of the public.[5]

5.8 By contrast, other organisations indicated that donations make up a smaller proportion of their income, alongside a variety of other funding sources.[6] For example, the Australian Network for Plant Conservation submitted that, in the last financial year, donations accounted for around 12 per cent of its income. Ms Joanne Lynch explained:

> The majority of our income is derived from membership fees, competitive grants, course and conference fees, and sales of publications. Donations are currently a relatively small component of our income. But, for an organisation of our scale, every little bit counts.[7]

5.9 There was general agreement among stakeholders that tax deductibility assisted environmental organisations to attract donations. However, some stakeholders noted the difficulty in determining precisely how DGR status affects the preferences of donors.

5.10 Nature Foundation SA described fundraising as 'a vital and constant part' of its activities and submitted that DGR status was of 'key importance' to this effort.[8] Similarly, Worlds End Conservation highlighted the difficulty of fundraising without DGR status:

> Public donations to [Worlds End Conservation] are reduced because we do not have DGR status. … many people have offered

3 Department of the Environment, *Submission 185*, p. 10.

4 Greenpeace Australia Pacific Limited, *Submission 354*, p. 3.

5 The Wilderness Society Inc., *Submission 411*, p. 2.

6 For example, see: Ms Claire Hanratty, Managing Director, Great Barrier Reef Foundation, *Committee Hansard*, Brisbane, 14 July 2015, p. 35; Mr Craig Wilkins, Chief Executive, Conservation Council SA, *Committee Hansard*, Adelaide, 1 September 2015, p. 3; Mr Ian Atkinson, Chief Executive Officer, Nature Foundation SA, *Committee Hansard*, Adelaide, 1 September 2015, p. 31; Mr Mark Wakeham, Chief Executive Officer, Environment Victoria, *Committee Hansard*, Melbourne, 21 September 2015, p. 2.

7 Ms Joanne Lynch, Business Manager, Australian Network for Plant Conservation Inc., *Committee Hansard*, Canberra, 18 September 2015, p. 18.

8 Nature Foundation SA, *Submission 463*, p. 1.

> to financially support Worlds End Conservation but have declined because they cannot claim it as a tax deduction.[9]

5.11 In addition to the role of DGR status in encouraging tax-deductible donations from individuals, the Committee heard evidence about the important role of DGR status in enabling environmental organisations to access grants from philanthropic bodies—in particular, public and private ancillary funds, which are limited to making distributions to DGRs.[10]

5.12 In its submission to the inquiry, Greening Australia noted that a recent $1 million donation from a public ancillary fund would not have been received without the organisation having DGR status.[11] Mr Jonathan Duddles, Director of Strategic Engagement for Greening Australia, expanded on this point at a public hearing of the inquiry:

> … having the DGR status has been critical to receiving all of our gifts. For organisations like the Ian Potter Foundation, the Myer Foundation and those organisations, it is a requirement that organisations have DGR status. You just cannot even talk to them, you do not even get in through the front door to have a conversation, without that.[12]

5.13 The Committee also heard evidence about a decline in state and federal government funding for not-for-profit environmental organisations, and how this had increased the importance of tax-deductible contributions and other sources of income.[13] Mr Duddles explained:

> … government funds for public good outcomes are declining in Australia and globally—that is very much a trend—which means that organisations like ours need to raise significantly more private funds.[14]

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9 Mr Peter Knapp, Director, Worlds End Conservation Pty. Ltd., *Committee Hansard*, Adelaide, 1 September 2015, p. 34.

10 Philanthropy Australia, Submission 420, p. 1; Mr Ian Atkinson, Chief Executive Officer, Nature Foundation SA, *Committee Hansard*, Adelaide, 1 September 2015, p. 31; Mr Krystian Seibert, Policy and Research Manager, Philanthropy Australia, *Committee Hansard*, Melbourne, 22 September 2015, p. 37.

11 Greening Australia, *Submission 398*, p. 4.

12 Mr Jonathan Duddles, Director of Strategic Engagement, Greening Australia, *Committee Hansard*, Melbourne, 22 September 2015, p. 30.

13 Associate Professor Nigel Andrew, President, Ecological Society of Australia, *Committee Hansard*, Brisbane, 14 July 2015, p. 49; Mr Mark Wakeham, Chief Executive Officer, Environment Victoria, *Committee Hansard*, Melbourne, 21 September 2015, p. 2; Ms Rachel Walmsley, Policy and Law Reform Director, EDO New South Wales, EDOs of Australia, *Committee Hansard*, Sydney, 17 November 2015, p. 35.

14 Mr Duddles, Greening Australia, *Committee Hansard*, Melbourne, 22 September 2015, p. 29.

5.14 Mr Piers Verstegen, Director of the Conservation Council of Western Australia, noted that the Council had responded to the withdrawal of government funding by increasing its emphasis on its tax-deductible fundraising activities.[15]

5.15 Similarly, during its program of site inspections, the Committee heard from several environmental DGRs that were attempting to generate reliable income from fee-for-service arrangements or social enterprises.

Public participation in environmental work

5.16 The Committee heard evidence about the role of environmental DGRs in enabling members of the public to participate—directly or indirectly—in the protection and enhancement of the natural environment.

5.17 The Australian Psychological Society noted that supporting the work of environmental organisations—by donating time or money—may be the only option available to some people who wish to act on their concerns about environmental matters such as climate change.[16]

5.18 Several stakeholders noted that, by donating to environmental DGRs, members of the community were able to have their views represented in public debate on environmental matters. For example, as Dr Anna Olijnyk explained:

> Many people may not have the time or expertise to engage in advocacy on their own behalf, and we think that DGR status is an important way of encouraging them to contribute to public debate by way of financial support.[17]

5.19 Many environmental DGRs noted the significant contribution made by volunteers to environmental work. For example, Conservation Volunteers Australia submitted that the organisation engages over 12,500 volunteers in practical conservation activities throughout Australia.[18] In the previous financial year, the organisation mobilised around 400,000 volunteer hours, equivalent to $10 million of investment.[19]

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15 Mr Piers Verstegen, Director, Conservation Council of Western Australia, *Committee Hansard*, Perth, 3 September 2015, pp. 3, 5.

16 Dr Susie Burke, Senior Psychologist, Public Interest, Environment and Disaster Response, Australian Psychological Society, *Committee Hansard*, Melbourne, 22 September 2015, pp. 17–18.

17 Dr Anna Olijnyk, private capacity, *Committee Hansard*, Adelaide, 1 September 2015, p. 7.

18 Conservation Volunteers Australia, *Submission 289*, p. 1.

19 Mr Ian Walker, Director, Conservation, Conservation Volunteers Australia, *Committee Hansard*, Melbourne, 22 September 2015, p. 32.

5.20 Similarly, Nature Foundation SA submitted that volunteers contributed over 10,000 hours to the organisation in the last year alone, and that its voluntary management committee includes experts from government, business, academia, and the community.[20]

5.21 Aside from the direct contribution to environmental outcomes, several stakeholders highlighted benefits to physical health and mental health associated with volunteer work, and with engagement in environmental issues more broadly.[21]

5.22 Lastly, at several site inspections around Australia, the Committee heard about significant in-kind contributions made to environmental DGRs by landholders, businesses, and other community members.

Public trust in environmental DGRs

5.23 There was general agreement among stakeholders about the importance of public trust and confidence in the not-for-profit environmental sector.

5.24 Research commissioned by the Australian Charities and Not-for-profits Commission (ACNC) in 2013 found that charities' activities are the most important factor affecting public trust and confidence.[22] The research also highlighted the importance of not-for-profit organisations being transparent about their governance, activities, and expenditure.

5.25 The extent to which environmental DGRs are required to report to the Department of the Environment (the Department) is discussed in Chapter 6.

5.26 However, throughout the inquiry, the Committee heard evidence about the various ways in which environmental DGRs inform the public—members, supporters, and the broader community—about their activities.[23] For example, environmental DGRs submitted that they report information to the public through regular newsletters, in annual reports, and online.

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20 Nature Foundation SA, *Submission 463*, p. 1; Mr Bob Lott, President, Nature Foundation SA, *Committee Hansard*, Adelaide, 1 September 2015, p. 32.

21 For example, see: Ms Lois Levy, Campaign Coordinator, Gecko-Gold Coast and Hinterland Environment Council Association, *Committee Hansard*, Brisbane, 14 July 2015, p. 15; Mr Walker, Conservation Volunteers Australia, *Committee Hansard*, Melbourne, 22 September 2015, p. 32.

22 Australian Charities and Not-for-profits Commission (ACNC), 'Public trust and confidence in Australian charities', May 2013, p. 5, <https://www.acnc.gov.au/ACNC/Pblctns/Rpts/PublicTrust/ACNC/Publications/Reports/Trust_con.aspx> viewed 4 February 2016.

23 For example, see: Ms Katherine Smolski, Chief Executive Officer, Nature Conservation Council of NSW, *Committee Hansard*, Sydney, 17 November 2015, p. 16.

5.27 In addition to the primary function of DGR status in enabling eligible organisations to access tax-deductible contributions, which is discussed earlier in this chapter, several stakeholders submitted that DGR status confers a degree of legitimacy on organisations listed on the Register.[24]

5.28 For example, in its submission to the inquiry, the Nature Conservation Council of NSW suggested that DGR status signifies to potential donors that an organisation has undergone a degree of scrutiny. The submission went on to explain:

> DGR status assists donors and trusts to identify environment groups set up to effectively and responsibly manage and use donations for the purpose of protecting the environment.[25]

5.29 Similarly, Senator Matthew Canavan submitted that organisations with DGR status enjoy an increased level of public trust, in part because it is assumed that governments have adequate mechanisms in place to ensure compliance with regulatory requirements.[26]

5.30 However, the Community Council of Australia argued that DGR status bestows no direct benefits on an organisation. The Council stated that the extent of government support for a DGR depends on the level to which that organisation engages with the community and, through that engagement, is successful in attracting tax-deductible donations.[27]

Stakeholders' concerns about environmental DGRs

5.31 Throughout the inquiry, the Committee heard a range of community concerns about the activities of some environmental DGRs. These matters are discussed in the remainder of this chapter.

5.32 Reporting, compliance, and the handling of complaints in relation to environmental DGRs are considered in Chapter 6.

Accuracy of information and education

5.33 The Committee heard concerns about inaccurate or misleading information contained in advertisements and campaigns co-ordinated by some environmental DGRs.

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24 Victorian Government, *Submission 457*, p. 1; Mr Ian Atkinson, Chief Executive Officer, Nature Foundation SA, *Committee Hansard*, Adelaide, 1 September 2015, p. 30.

25 Nature Conservation Council of NSW, *Submission 369*, p. 5.

26 Senator Matthew Canavan, *Submission 493*, p. 6.

27 Community Council of Australia, *Submission 425*, p. 6.

5.34 For example, it was suggested that some environmental DGRs use information selectively or rely on information lacking a scientific or evidentiary basis. It was also suggested that some environmental DGRs misrepresent or exaggerate environmental impacts, in particular impacts associated with resource-use industries such as mining and forestry.[28]

5.35 In a submission to the inquiry, Mr Mark Poynter argued that the public education role of environmental DGRs relies on full disclosure of all relevant information, but that some organisations engaged in public advocacy and lobbying have an interest in misrepresenting environmental issues.[29] Mr Poynter submitted:

> … often this misrepresentation is … achieved by selective use of information, emotive language, and strategic avoidance of critically important context to create impressions that often paint a completely unreal picture of the level of environmental threat.[30]

5.36 In response to questions from the Committee, representatives of environmental DGRs agreed on the importance of using accurate information as a basis for education and public campaigning.

5.37 Representatives outlined a variety of methods through which they attempt to ensure the accuracy of information provided to the public, also noting that they attempt to correct any statements found to be inaccurate.[31]

5.38 As noted in Chapter 2, guidelines issued by the Department state that the provision of information and education by environmental DGRs should ultimately be directed at some positive benefit relating to the protection of the natural environment.[32]

5.39 However, at a public hearing of the inquiry, representatives of the Department noted that there is no explicit requirement for information and education provided by environmental DGRs to be accurate. The

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28 For example, see: Mr Mark Poynter, *Submission 360*, pp. 6–10; Australian Petroleum Production and Exploration Association, *Submission 580*, pp. 18–20; Mr Michael Roche, Chief Executive, Queensland Resources Council, *Committee Hansard*, Brisbane, 14 July 2015, pp. 1–2; Senator Matthew Canavan, *Committee Hansard*, Brisbane, 14 July 2015, p. 11; Mr Bruce Holland, Secretary, The Norwood Resource Inc., *Committee Hansard*, Adelaide, 1 September 2015, p. 15.

29 Mr Mark Poynter, *Submission 360*, p. 10.

30 Mr Mark Poynter, *Submission 360*, p. 9.

31 For example, see: Mr Robert Makinson, Management Committee Member and past President, Australian Network for Plant Conservation Inc., *Committee Hansard*, Canberra, 18 September 2015, p. 20; Mr Steve Meacher, Vice President, MyEnvironment, *Committee Hansard*, Melbourne, 22 September 2015, p. 10; Dr Michael Williams, President, Mackay Conservation Group, *Committee Hansard*, Bowen, 30 September 2015, p. 10.

32 Department of the Environment, *Submission 185*, p. 15.

representatives also noted that the powers available to the Department to regulate the communications of environmental DGRs were limited.[33]

5.40 Several stakeholders recommended that the Committee consider additional regulation in relation to the accuracy of information and education provided by environmental DGRs.[34] However, it was also submitted that it is appropriate for any inaccuracies to be corrected through the course of public debate.[35]

Economic and social impacts

5.41 The Committee heard concerns about the activities of some environmental DGRs leading to adverse economic and social impacts, particularly in regional communities. In particular, stakeholders voiced concern about activities aimed at impeding development in resource-use industries.

5.42 As an example, stakeholders raised the *Stopping the Australian Coal Export Boom* strategy, which was developed with input from members of several environmental organisations.[36] Elements of the strategy include disrupting and delaying mining and infrastructure projects, creating a perception of risk in relation to coal investments, and eroding public and political support for the coal industry.[37]

5.43 At a public hearing in Bowen in Queensland, members of the community argued that the actions of some environmental DGRs were leading to less capital investment in the region and, as a result, diminished economic conditions and fewer employment opportunities.[38] In particular, concerns were raised about repeated challenges to approval processes for mining and infrastructure projects.

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33 Mr Simon Writer, General Counsel, Department of the Environment, *Committee Hansard*, Canberra, 26 November 2016, p. 8.

34 Queensland Resources Council, *Submission 257*, p. 16; Senator Matthew Canavan, *Submission 493*, p. 19; The Norwood Resource Inc., *Submission 494*, p. 3.

35 Dr Olijnyk, *Committee Hansard*, Adelaide, 1 September 2015, p. 8.

36 For example, see: Queensland Resources Council, *Submission 257*, pp. 11–13; NSW Minerals Council, *Submission 260*, p. 12; Ports Australia, *Submission 358*, p. 5; Senator Matthew Canavan, *Submission 493*, p. 14; Minerals Council of Australia, *Submission 497*, pp. 10–11; Australian Petroleum Production and Exploration Association, *Submission 580*, p. 10.

37 J. Hepburn, B. Burton, and S. Hardy, 'Stopping the Australian Coal Export Boom: Funding proposal for the Australian anti-coal movement' < http://www.abc.net.au/mediawatch /transcripts/1206_greenpeace.pdf> viewed 12 February 2016.

38 Mr David Hartigan, Deputy Chairman, Resource Industry Network, *Committee Hansard*, Bowen, 30 September 2015, pp. 6, 8; Ms Elouise Lamb, Economic Development Specialist, Whitsundays Marketing and Development Ltd., *Committee Hansard*, Bowen, 30 September 2015, pp. 25, 27; Mr Bruce Hedditch, Chairman, Bowen Chamber of Commerce, *Committee Hansard*, Bowen, 30 September 2015, p. 29.

5.44 More generally, it was also suggested that the interests of the regional communities were not adequately represented in debate in relation to environmental matters.[39]

5.45 However, in Bowen, the Committee also heard evidence about positive engagement between environmental DGRs and the local community through the Mackay–Whitsunday Healthy Rivers to Reef Partnership, which brings together industry, farming, and conservation groups, in addition to local government and the business development sector.

5.46 Mr Robert Cocco, Chief Executive Officer of Reef Catchments, one of the environmental DGRs involved in the partnership, explained:

> What we are seeing coming out of that partnership is a strong drive from everyone who sits around the table trying to come up with what is fundamentally a balance between how we continue to be able to let our regional communities prosper and flourish and be vibrant—places where people want to live—while at the same time looking after some of the key assets that drive our agricultural industries [and] tourism industries.[40]

5.47 In response to questions from the Committee, representatives of environmental DGRs described attempts to consult with affected communities.[41] For example, Mr Lyndon Schneiders, National Campaigns Director of The Wilderness Society, highlighted the negotiation of the Tasmanian Forestry Agreement in 2013 as an example of environmental organisations working together with industry and affected communities to achieve sustainable environmental, economic, and social outcomes.[42]

5.48 Mr Schneiders went on:

> … I cannot think of a campaign that we operate anywhere in the country where we have not gone and spent the time working with the local community.[43]

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39 For example, see: Senator Matthew Canavan, *Submission 493*, pp. 10–12; Mrs Tarah Medcalf, private capacity, *Committee Hansard*, Bowen, 30 September 2015, p. 22.

40 Mr Robert Cocco, Chief Executive Officer, Reef Catchments Ltd., *Committee Hansard*, Bowen, 30 September 2015, p. 3.

41 For example, see: Mr Dermot O'Gorman, Chief Executive Officer, WWF Australia, *Committee Hansard*, Canberra, 18 September 2015, p. 34; Mr David Ritter, Chief Executive Officer, Greenpeace Australia Pacific Limited, *Committee Hansard*, Sydney, 17 November 2015, p. 3.

42 Mr Lyndon Schneiders, National Campaigns Director, The Wilderness Society Inc. *Committee Hansard*, Sydney, 17 November 2015, p. 8.

43 Mr Schneiders, The Wilderness Society Inc., *Committee Hansard*, Sydney, 17 November 2015, p. 12.

Political activity

5.49 Throughout the inquiry, stakeholders expressed concerns about the involvement of some environmental DGRs in political activity.

5.50 For example, the Committee heard examples of environmental DGRs campaigning in recent state and federal elections, through activities including doorknocking in marginal seats, lobbying candidates, and distributing scorecards evaluating or ranking the policies of various political parties.[44]

5.51 Stakeholders expressed concerns about a lack of guidance on the extent to which political activity is both consistent with the purpose of the Register and a legitimate application of tax-deductible donations, and also about a lack of transparency in relation to the political expenditure of environmental DGRs.[45]

5.52 There was general agreement among representatives of environmental DGRs about the importance of providing information in an independent and nonpartisan manner.

5.53 For example, Ms Kelly O'Shanassy, Chief Executive Officer of the Australian Conservation Foundation, stated:

> While we may seek to influence the views of politicians, business leaders and communities, we remain strictly nonpartisan. We base our views on the policy and not the party behind it.[46]

5.54 Ms O'Shanassy went on to argue that the credibility of the organisation, and the trust of its supporters and the wider community, would be jeopardised if it were to act in a partisan manner.

5.55 Representatives of the Department advised that there is no specific prohibition on environmental DGRs engaging in political activities. Instead, the relevant consideration under the *Income Tax Assessment Act 1997* (Cth) is whether or not those activities are consistent with the principal purpose test.[47]

5.56 In its submission to the inquiry, the ACNC noted the *Charities Act 2013* (Cth) prohibits charitable organisations from having a disqualifying

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44 For example, see: Senator Matthew Canavan, *Submission 493*, pp. 8–10.

45 For example, see: Australian Taxpayers' Alliance, *Submission 492*, p. 1; Senator Matthew Canavan, *Submission 493*, pp. 8–10; Minerals Council of Australia, *Submission 497*, pp. 11–13.

46 Ms Kelly O'Shanassy, Chief Executive Officer, Australian Conservation Foundation, *Committee Hansard*, Melbourne, 21 September 2015, pp. 29–30. The Australian Conservation Foundation is not listed on the Register but is listed as a DGR in the *Income Tax Assessment Act* 1997.

47 Ms Lara Musgrave, Assistant Secretary, Engagement and Evaluation, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 5.

purpose, including a 'purpose of promoting or opposing a political party or a candidate for political office'.[48] The submission explained:

> If an organisation's affiliation with a political party is so extensive as to suggest that it is a main purpose to elect the party or candidate, this is likely to show a disqualifying purpose.[49]

5.57 However, the ACNC noted that the purpose of distributing information, or advancing debate, about the policies of political parties or candidates for political office (including by comparing or ranking those policies) would not disqualify an organisation from being a charity.[50]

Illegal and unlawful conduct

5.58 Lastly, stakeholders expressed concern about instances of illegal and unlawful activity carried out by individuals either associated with or supported by environmental DGRs.

5.59 Examples given in evidence to the inquiry include instances of trespass, damage and destruction of property, blocking access, maritime offences, and resisting and hindering police.[51]

5.60 An incident raised by several stakeholders involved the destruction of a crop of genetically modified plants that was part of an experiment being conducted by the Commonwealth Scientific and Industrial Research Organisation (CSIRO) at the Ginninderra Experiment Station on Crown land in the Australian Capital Territory.

5.61 Following the incident, two individuals were convicted on the charge of intentionally destroying Commonwealth property and given suspended sentences of nine months' duration.[52] At the time the incident occurred, the individuals were both employees of Greenpeace Australia Pacific Limited, which is an environmental DGR.[53]

5.62 During the trial in the Supreme Court of the ACT, the facts of the case were set out by the Hon. Justice Penfold:

> Early on the morning of 14 July 2011, the two accused, wearing protective suits, face shields, hard hats and ear muffs, climbed over several fences to reach the genetically modified wheat crop

48 ACNC, *Submission 189*, p. 8; *Charities Act 2013* (Cth), s. 11.

49 ACNC, *Submission 189*, p. 8.

50 ACNC, *Submission 189*, pp. 7–8.

51 For example, see: Queensland Resources Council, *Submission 257*, pp. 7–9; NSW Minerals Council, *Submission 260*, pp. 8–10; Senator Matthew Canavan, *Submission 493*, pp. 10–13; Minerals Council of Australia, *Submission 497*, pp. 14–19.

52 R v Latona and McCabe (2012) SCC 70; SCC 71, pp. 9–10.

53 R v Latona and McCabe (2012) SCC 70; SCC 71, pp. 5–6.

> and then used brush cutters with nylon cutting heads, sometimes called whipper-snippers, to cut down the wheat crop.[54]

5.63 In a pre-sentence report, the individuals stated that 'non-violent direct action' was necessary to advance their campaign to end production of genetically modified food.[55]

5.64 Justice Penfold went on to explain how the destruction of the crop was publicised by both the individuals and Greenpeace:

> One of the two [accused] … conducted interviews for ABC Radio and Television, and shortly afterwards, digital footage depicting the actions of the protesters was provided to ABC staff and also posted on the internet.
>
> Later that day, Greenpeace released a statement on its official website about the removal of what it called the 'controversial crop', quoting [the two accused].[56]

5.65 Prior to the conclusion of the trial, Greenpeace made a payment of $282,560 (the amount identified as the cost of reinstating the lost experiment) to CSIRO in the nature of reparations.[57] This was noted by Justice Penfold in discussing the role of Greenpeace in the incident:

> The material before me suggests that these offences were committed at the instigation of, or at least with the backing of, those who are ultimately responsible for the operations of Greenpeace Australia. The willingness of those people to spend over $280,000 on reparations, presumably money intended by Greenpeace supporters to fund the pursuit of Greenpeace's aims rather than the re-instatement of a GM experiment run by CSIRO, indicates wholehearted support, at least among the organisation's leaders, for the actions of [the two accused].[58]

5.66 In the months preceding the incident, Greenpeace had submitted several Freedom of Information requests to the CSIRO in an attempt to ascertain the nature of the experiments being pursued at the site; however, these requests were refused on the basis of commercial confidentiality.[59]

5.67 At a public hearing of the inquiry, and in response to questioning from the Committee about the incident, Mr David Ritter, Chief Executive Officer of

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54 R v Latona and McCabe (2012) SCC 70; SCC 71, p. 2.
55 R v Latona and McCabe (2012) SCC 70; SCC 71, p. 4.
56 R v Latona and McCabe (2012) SCC 70; SCC 71, p. 2.
57 R v Latona and McCabe (2012) SCC 70; SCC 71, p. 4.
58 R v Latona and McCabe (2012) SCC 70; SCC 71, p. 9.
59 R v Latona and McCabe (2012) SCC 70; SCC 71, p. 4.

Greenpeace Australia Pacific Limited, stated that the incident occurred prior to his employment with the organisation.[60]

5.68 However, Mr Ritter went on to suggest that the handling of the incident by the relevant authorities was 'an example of the system working'.[61]

5.69 Mr Ritter also argued that the extent of Greenpeace's support for the two individuals did not constitute a broader endorsement of illegal activity. Mr Ritter explained:

> The intention was not to break the law. The intention was to protect the environment.[62]

5.70 Mr Ritter added that he had ruled out activities of a similar kind from occurring in the future.[63] However, in its submission to the inquiry, Greenpeace stated that 'non-violent direct action' is 'one of [its] key methods for protecting the environment'.[64]

5.71 More broadly, some stakeholders expressed concern about some environmental DGRs engaging in unsafe protest activity and protest activity designed to interfere with commercial or industrial operations.

5.72 In its submission to the inquiry, the NSW Police Force explained:

> The familiar protest tactics observed are interference with business activities through obstruction of vehicles and roads, 'lock-ons', trespass, malicious damage and the erection of harmful structures designed to cause delay such as placement of flammable liquids around blockades.[65]

5.73 Representatives of several industry associations submitted that protest activity has, in some instances, involved serious risks to the safety of employees, volunteers, and other members of the community.[66]

5.74 Industry representatives also noted the financial cost that can be imposed on taxpayers and affected companies by protest activity.[67]

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60 Mr David Ritter, Chief Executive Officer, Greenpeace Australia Pacific Limited, *Committee Hansard*, Sydney, 17 November 2015, p. 4.

61 Mr Ritter, Greenpeace Australia Pacific Limited, *Committee Hansard*, Sydney, 17 November 2015, p. 4.

62 Mr Ritter, Greenpeace Australia Pacific Limited, *Committee Hansard*, Sydney, 17 November 2015, p. 4.

63 Mr Ritter, Greenpeace Australia Pacific Limited, *Committee Hansard*, Sydney, 17 November 2015, p. 4.

64 Greenpeace Australia Pacific Limited, *Submission 354*, p. 14.

65 NSW Police Force, *Submission 683*, p. 1.

66 Ports Australia, *Submission 358*, pp. 3–5; Minerals Council of Australia, *Submission 497*, p. 14.

67 NSW Minerals Council, *Submission 260*, p. 13; Queensland Resources Council, *Submission 257*, p. 4.

5.75 The police forces of New South Wales and Victoria submitted that protest activity associated with environmental organisations has a significant and ongoing impact on police resources.[68] The NSW Police Force explained:

> Police involvement with protest activity goes beyond mere attendance at the protest site. A significant amount of time is invested in investigations, arrests, charges and subsequent court attendance for unlawful protest activity.[69]

5.76 Several stakeholders also expressed concern about organisations providing support to individuals to engage in civil disobedience.

5.77 For example, the Australian Petroleum Production and Exploration Association submitted that CounterAct 'promotes illegal activity and is primarily involved in running training camps to teach activists how to frustrate lawful development and be strategically arrested by police'.[70]

5.78 CounterAct operates as a part of Friends of the Earth Australia, which is an environmental DGR, and receives tax-deductible donations on that basis.[71]

5.79 At a public hearing, Ms Nicola Paris, the Coordinator of CounterAct, stated that the focus of the organisation's training is not on directing people to break the law:

> … I never direct anyone to break the law. I would actively encourage people, if they were considering it themselves, to think very carefully about the consequences. … I believe that if I can support communities that want to take these types of actions themselves to do that in a more safe and peaceful way, then that is a completely valid form of education and training.[72]

5.80 The Committee also heard evidence of environmental DGRs soliciting tax-deductible donations for the purpose of paying penalties and fines.[73] Senator Matthew Canavan submitted that the effectiveness of deterrents to illegal and unlawful activity is undermined if environmental DGRs indicate that fines will be paid through donations.[74]

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68 NSW Police Force, *Submission 683*, p. 1; Victoria Police, *Submission 685*, p. 7.

69 NSW Police Force, *Submission 683*, p. 1.

70 Australian Petroleum Production and Exploration Association, *Submission 580*, p. 4.

71 Ms Nicola Paris, Coordinator, CounterAct, *Committee Hansard*, Melbourne, 21 September 2015, p. 19.

72 Ms Nicola Paris, Coordinator, CounterAct, *Committee Hansard*, Melbourne, 21 September 2015, pp. 20–21.

73 Minerals Council of Australia, *Submission 497*, p. 24; Australian Petroleum Production and Exploration Association, *Submission 580*, p. 18.

74 Senator Matthew Canavan, *Submission 493*, p. 13.

5.81 In its submission to the inquiry, the ACNC indicated that charitable organisations are prohibited from having a 'purpose of engaging in, or promoting, activities that are unlawful or contrary to public policy'.[75] However, the submission explained:

> This would require evidence of more than particular individuals being involved in illegal activity, that is, it requires evidence of a purpose of engaging in illegal activity.[76]

5.82 At a public hearing of the inquiry, representatives of the ACNC advised that instances of unlawful activity would be cause for immediate inquiry, and that a continuing pattern of unlawful activity may indicate that an organisation is not meeting governance standards set out by the ACNC.[77]

5.83 The ACNC's governance standards are designed to provide a minimum level of assurance that charitable organisations are meeting community expectations. Among other requirements, the standards require that charities must not commit a serious offence under Australian law.[78]

5.84 In its submission, the ACNC also indicated that charitable organisations must not be characterised by a decision by an Australian government agency under Australian law as engaging in, or supporting, terrorist or other criminal activities.[79]

5.85 Representatives of the Department advised that the consideration of illegal activity is not mandated by the legislation that establishes the Register, but that instances of illegal activity could be relevant to an assessment of an organisation's principal purpose.[80]

5.86 However, some stakeholders recommended that organisations found to have engaged in illegal and unlawful activity, or organisations that have advocated or promoted such activity, be suspended or removed from the Register, making them ineligible to receive tax-deductible donations.[81]

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75 ACNC, *Submission 189*, pp. 7–8; *Charities Act*, s. 11.

76 ACNC, *Submission 189*, p. 8.

77 Mr Murray Baird, Assistant Commissioner and General Counsel, ACNC, *Committee Hansard*, Canberra, 18 June 2015, p. 3.

78 *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth), div. 45.

79 ACNC, *Submission 189*, p. 9; *Australian Charities and Not-for-profits Commission Act 2012* (Cth), s. 25-5(3).

80 Mr Simon Writer, General Counsel, Department of the Environment, *Committee Hansard*, Canberra, 26 November 2015, pp. 8–9.

81 For example, see: Australian Taxpayers' Alliance, *Submission 492*, pp. 4–6; Senator Matthew Canavan, *Submission 493*, p. 22; Minerals Council of Australia, *Submission 497*, p. 3.

Committee comment

5.87 The Committee acknowledges the significant contribution of members of the public to the work of environmental DGRs. Equally, the Committee acknowledges the important role of environmental DGRs in enabling members of the public to actively participate in the protection and enhancement of the natural environment.

5.88 Evidence presented to the Committee indicates that the Register plays an important role in supporting positive engagement between communities and environmental organisations.

5.89 However, the Committee notes stakeholders' concerns about the activity of a small number of environmental DGRs, ranging from providing false and misleading information to serious instances of criminal activity. The Committee considers that such activity undermines public trust and confidence in environmental DGRs and in the not-for-profit sector more broadly.

5.90 In particular, the Committee considers it inappropriate for an environmental DGR to use the illegal and unlawful activity of individuals in order to further its purpose or gain publicity for a particular point of view.

5.91 Effective regulation of environmental DGRs is necessary to ensure that public trust and confidence in the sector is maintained and strengthened. Furthermore, DGR status should have a role in enabling members of the public to identify organisations that are meeting community expectations.

5.92 As a consequence of the Committee's recommendation that charitable status be a prerequisite for environmental organisations seeking DGR status, all environmental DGRs would be required to comply with the ACNC governance standards and be prohibited from having an illegal or political purpose.

5.93 The Committee considers that this would provide greater assurance to members of the public that environmental DGRs are operating lawfully and in the public interest.

5.94 However, in light of the evidence received, the Committee considers that additional administrative sanctions, including revocation of DGR status, should apply to environmental DGRs that support or are associated with illegal or unlawful activity.

Recommendation 6

The Committee recommends that administrative sanctions be introduced for environmental deductible gift recipients that encourage, support, promote, or endorse illegal or unlawful activity undertaken by employees, members, or volunteers of the organisation or by others without formal connections to the organisation.

5.95 Examples of conduct that the Committee expects would be captured by any changes include blocking access, trespass, destruction of property, violence and assault, and acts of civil disobedience.

5.96 Payment of penalties or court-ordered fines in relation to the above should also be captured. Similarly, supporting (financially or otherwise), training in, or promoting the above should be captured.

5.97 The Committee expects that appropriate administrative sanctions would depend on the extent and seriousness of the offence and on the nature of the relationship between the offender and the organisation.

5.98 However, the Committee is of the view that environmental DGRs that are characterised by a decision under Australian law as having engaged in or supported serious criminal activity should have their DGR endorsement suspended for a period of at least five years.

5.99 The Committee considers that both the Australian Taxation Office (ATO) and the ACNC should have an ongoing role in monitoring and investigating the conduct of environmental DGRs.

5.100 However, environmental DGRs should, as a condition of attracting DGR status, be required to disclose to the ATO any arrests, charges, or convictions in relation to employees or responsible members.

5.101 The Committee expects that decisions to apply sanctions to environmental DGRs would be the responsibility of the Commissioner of Taxation (or an authorised delegate). The Committee also expects that an appropriate review process would be established, including a provision for internal and/or judicial review.

5.102 Additional recommendations intended to strengthen the reporting and compliance arrangements for environmental DGRs are discussed in Chapter 6.

6

Reporting and compliance

Existing reporting framework

6.1 Throughout the course of the inquiry, the Committee heard evidence relating to the powers available to the Department of the Environment (the Department) to ensure that organisations meet their responsibilities, including reporting requirements, once listed on the Register.

6.2 The Department's compliance process, established in the Register's Guidelines, includes reviewing statistical returns received annually, in accordance with the legislative requirements for listing on the Register.[1] The Department may take action on any compliance issues raised during the review in these returns, and following the receipt of any additional intelligence about the activities of certain organisations.[2]

6.3 The Committee heard that the Department's powers were limited, particularly when compared with the investigation or coercive powers available to the Australian Taxation Office (ATO) and Australian Charities and Not-for-profits Commission (ACNC), with regard to the regulation of deductible gift recipients (DGRs) and charities more broadly.[3]

6.4 The Department also noted that its powers to take further action were limited:

> We have a power to request statistical information from entities and we analyse that information, but we have no additional

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1 *Income Tax Assessment Act 1997* (Cth) (ITAA), s. 30-270(4).

2 Department of the Environment, *Submission 185*, p. 20; Department of the Environment, *Submission 185*, Attachment D: 'Register of Environmental Organisations Guidelines'.

3 See Department of the Environment, *Submission 185*, p. 20.

powers to do anything in relation to that information or their activities.[4]

6.5 These compliance powers are discussed in detail later in this chapter.

Reporting requirements for the Register

6.6 Organisations on the Register must agree to submit to the Secretary of the Department, statistical information about gifts made to its public fund within a reasonable period after the end of each financial year.[5]

6.7 Organisations must provide the following information in each statistical return:

- donations received and expenditure from the Public Fund account;
- any changes to the organisation that could affect its eligibility; and
- the environmental outcomes the organisation achieved in the year, including information on how money or property donated to the fund has been used, and how this contributes to the organisation's public purpose.[6]

6.8 The Department also retains a right to request an Audited Financial Statement, should it be required as part of assurance processes.[7]

6.9 As at 18 January 2016, 506 registered organisations had submitted their 2014 statistical return, noting some organisations operated on a calendar year, rather than a financial year, and reported at a different time.[8]

6.10 423 statistical returns for 2015 had been received by the same date, noting organisations with a reporting date aligning with the financial year were due to report in October 2015.[9]

6.11 The Department sends follow-up letters to organisations who have not submitted their statistical return by the required time, reminding them of their reporting obligations.[10]

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4 Mr Simon Writer, General Counsel, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 10.

5 ITAA, s. 30-270(4); Department of the Environment, *Submission 185*, pp. 18-19; Department of the Environment, *Submission 185*, Attachment F: 'Ministerial Rules'. A ministerial rule is in place to ensure that organisations must not only agree to provide the statistical return, but must actually provide it.

6 Department of the Environment, *Submission 185*, p. 19; Department of the Environment, *Submission 185*, Attachment I: 'Register of Environmental Organisations – Statistical Reporting Form 2014'.

7 Department of the Environment, *Submission 185*, p. 19.

8 Department of the Environment, *Submission 185.2*, p. 4; Ms Lara Musgrave, Assistant Secretary, Parks Island and Biodiversity Science, Department of the Environment, *Committee Hansard*, Canberra, 26 November 2015, p. 12.

9 Department of the Environment, *Submission 185.2*, p. 4

6.12 While the Department endeavours to review each statistical return received, in practice it actively reviews 10 per cent of organisations on the Register each year.[11]

6.13 After receipt of an organisation's statistical return, the Department may request additional information in the following circumstances:

- where inconsistent information has been supplied with the return;
- where there is information suggesting that the organisation's activities are not consistent with its stated principal purpose; or
- where the organisation is subject to a compliance audit.

6.14 Requests for additional information may include audited financial records and/or written responses to matters put to the organisation by the Department.[12] However, when asked by the Committee, representatives of many environmental DGRs indicated that they had not been contacted by the Department outside the regular reporting process.[13]

6.15 Any issues that arise from reviewing the returns that fall outside of the Department's remit or powers are referred to a relevant organisation for further review, such as the ATO, or the ACNC.[14]

6.16 Issues of compliance, including the consequences of failing to provide a statistical return, are discussed further below.

Duplication with other reporting requirements

6.17 The Committee was advised that the reporting requirements placed on organisations listed on the Register duplicated other regulatory requirements, including the reporting requirements to maintain registration as a charity with the ACNC, and reporting requirements of relevant state and territory regulatory bodies, such as fundraising reporting requirements.

6.18 The Department confirmed some of its reporting requirements were duplicative with reporting requirements for the ACNC.[15] This duplication

10 Department of the Environment, *Submission 185.1*, p. 5.

11 Department of the Environment, *Submission 185*, p. 20; Ms Musgrave, Department of the Environment, *Committee Hansard*, Canberra, 26 November 2015, p. 6.

12 Department of the Environment, *Submission 185.2*, p. 6.

13 For example, see: Ms Carol Shannon, Treasurer, Painted Dog Conservation Inc., *Committee Hansard*, Perth, 3 September 2015, p. 21; Mr Matthew Brennan, National Director, Operations, The Wilderness Society Inc., *Committee Hansard*, Sydney, 17 November 2015, p. 11; Ms Katherine Smolski, Chief Executive Officer, Nature Conservation Council of NSW, *Committee Hansard*, Sydney, 17 November 2015, p. 14.

14 Ms Musgrave, Department of the Environment, *Committee Hansard*, Canberra, 26 November 2015, p. 6.

15 Department of the Environment, *Submission 185*, p. 19.

currently affects approximately 445 registered charities, which have also been endorsed as a DGR.[16]

6.19 Registered charities are required to provide the ACNC with an Annual Information Statement, containing financial and other information.[17] The ACNC manages the regulatory impost on different-sized charities by tapering the reporting requirements for small, medium and large charities:

> The small charities are required from this year, when financial reporting is required for the first time, to input nine data items; the medium charities, 12 data items plus reviewed or audited accounts; and the large, 15 data items plus audited accounts. There is a much higher threshold for the medium and larger charities.[18]

6.20 The ACNC confirmed that a large volume of information collected by the Department in a statistical return is also collected in the ACNC Annual Information Statement.[19]

6.21 Whereas the ACNC makes certain information on the Annual Information Statement publicly available, the Department cannot make statistical information provided to it publicly available, as this would breach the taxpayer confidentiality provisions in the *Taxation Administration Act 1953*.[20]

6.22 Information collected by the Department, that is not collected by the ACNC, includes:

- the number of members of an organisation;
- the amount received specifically from donations of money and property;
- the organisation's environmental outcomes;
- a description and the percentage of activities conducted outside Australia; and
- the time taken to complete the statistical return form.[21]

6.23 Evidencing the duplication of reporting requirements across numerous agencies, the Great Barrier Reef Foundation told the Committee that its current reporting obligations included reporting annually (and more frequently in some instances) to the Department in relation to the Register, the Queensland Office of Fair Trading regarding fundraising approval

16 Australian Charities and Not-for-profits Commission (ACNC), *Submission 189*, p. 11.

17 ACNC, *Submission 189*, p. 13; Department of the Environment, *Submission 185*, pp. 19-20.

18 Mrs Susan Pascoe AO, Commissioner, ACNC, *Committee Hansard*, Canberra, 18 June 2015, p. 2.

19 ACNC, *Submission 189*, p. 11.

20 Department of the Environment, *Submission 185*, p. 20.

21 ACNC, *Submission 189*, p. 11.

under the *Collections Act 1966* (Qld), and the ACNC in relation to its charity status.[22]

6.24 Friends of the Earth Australia advised that it reported to numerous agencies including Consumer Affairs, state and territory fundraising licensers, the ATO, the Department (for the Register) and the ACNC. Friends of the Earth therefore supported refining the reporting processes and appointing the ACNC as the primary regulator.[23]

6.25 The Department told the Committee that it did not seek to duplicate the reporting requirements of other agencies such as the Australian Securities and Investments Commission (ASIC) and ACNC, advising that where possible, the Department used existing legislatively-based reporting requirements to assist with any of its lines of inquiry.[24]

Existing compliance framework

6.26 The Department's compliance powers in relation to operation of the Register primarily relate to issues of compliance with the *Income Tax Assessment Act 1997* (Cth) (ITAA).[25]

6.27 The Department is able to request information from organisations on the Register, on the basis of information that has or has not been provided pursuant to registration requirements. However, the Department's enforcement and investigative powers are limited, particularly when compared with the powers of the ATO and ACNC:

> We cannot compel—we have no evidence-gathering powers or the capacity to coerce information from somebody through the obtaining of warrants or any of those sorts of mechanisms that might be available to other regulators. The options available to us in an enforcement sense are also quite limited. They are essentially the capacity to remove somebody from the register. It is a binary proposition: you can be on the register or you can be taken off. That is all we can do.[26]

22 Great Barrier Reef Foundation, *Submission 279*, p. 5.

23 Ms Samantha Castro, Operations Coordinator, Friends of the Earth Australia, *Committee Hansard*, Melbourne, 21 September 2015, p. 21.

24 Ms Musgrave, Department of the Environment, *Committee Hansard*, Canberra, 26 November 2015, p. 7; *Committee Hansard*, Canberra, 16 June 2015, pp. 9–10.

25 Mr Writer, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 3.

26 Mr Writer, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 3.

6.28 The power to remove an organisation from the Register rests with the Environment Minister and the Assistant Treasurer, acting for and on behalf of the Treasurer.[27]

6.29 To remain on the Register, an organisation must continue to meet the principal purpose test. The Department determines whether an organisation continues to meet this test by reviewing an organisation's activities (as set out in their constituting documents, statistical returns and other documents).[28]

6.30 General Counsel with the Department, Mr Simon Writer, noted the subjective nature of this assessment:

> Some of the judgements about those can be quite fluid and, I suppose, subjective, depending on that person's perspective. But what we look at is compliance with our principal purpose test. We necessarily, I suppose, take a fairly broad view about what compliance with that can be.[29]

6.31 Issues that may lead to an examination of whether an organisation should remain on the Register, include complaints received that an organisation is:

- no longer meeting the requirements of the ITAA;
- not collecting tax deductible donations from the public;
- not using donations to the public fund for the principal purpose of the organisation; and/or
- not adhering to the model rules for public funds, as established in the Register's guidelines.[30]

6.32 If an organisation refuses to provide information requested by the Department, the Environment Minister may be entitled to make adverse findings.[31]

6.33 Alternatively, the Department may refer a matter to the ATO or the ACNC, as both of these organisations have broad investigative powers—

27 Department of the Environment, *Submission 185*, p. 21.

28 Ms Lara Musgrave, Assistant Secretary, Engagement and Evaluation, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 2; Mr Writer, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, pp. 4–5.

29 Mr Writer, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 5.

30 Mr Writer, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 2; Department of the Environment, *Submission 185*, p. 22; Department of the Environment, *Submission 185*, Attachment D: 'Register of Environmental Organisations Guidelines'.

31 Department of the Environment, *Submission 185*, p. 21.

noting that for the ACNC to exercise its powers of enforcement, the organisation must also be a registered charity.[32]

6.34 The deregistration process involves sending two warning letters to the organisation in question, and giving the organisation three months to respond. Following this, a recommendation is made to the Environment Minister and Assistant Treasurer for the organisation's removal from the Register.[33]

6.35 The Environment Minister does not have the power to remove organisations immediately and without being subject to general administrative law principles.[34]

6.36 Decisions to remove organisations from the Register are subject to judicial review through the *Administrative Decisions (Judicial Review) Act 1977* (Cth). Such decisions are not subject to internal or merits review.[35]

6.37 Since the introduction of the Register in 1992, 126 organisations have been removed from the Register. Of these, 105 requested their removal, 14 failed to provide the relevant statistical and other reports required in the legislation, and seven had their Australian business number cancelled. No organisation has to date been deregistered on the basis of non-compliance with its stated objectives, as outlined in its constitutional documents.[36]

6.38 Three compliance letters were issued by the Department in 2013–14 and one was issued in 2014–15, on the basis of concern regarding compliance with the principal purpose requirement. Of these, one organisation subsequently requested removal from the Register, two organisations provided sufficient information to satisfy the Department that they were in compliance, and one organisation did not provide sufficient information in its response to the Department. That matter was referred to the ATO for further consideration.[37]

6.39 The Department noted that the failure to submit a statistical return was the most common reason for issuing a compliance notice. The Department waits several months after 31 October before issuing such a notice. Where no other compliance issues are identified, the Department takes no further action unless the organisation fails to comply with reporting requirements

32 Department of the Environment, *Submission 185*, p. 21.

33 Department of the Environment, *Submission 185*, p. 22.

34 Department of the Environment, *Submission 185*, p. 21.

35 Department of the Environment, *Submission 185*, p. 22.

36 Department of the Environment, *Submission 185*, p. 22; *Submission 185.1*, p. 14.

37 Department of the Environment, *Submission 185.1*, p. 15. At the time of providing this evidence to the Committee, the outcome of this investigation was not known to the Department.

in further years. If this occurs, a notice of intent to remove for repeated non-compliance may be issued.[38]

Investigation of complaints

6.40 In investigating complaints made regarding organisations on the Register, the Department first looks to the documents provided by an organisation (for example in an organisation's statistical return), before undertaking any further inquiries about issues of compliance.[39]

6.41 The Department received two complaints about registered organisations in 2013-14. One of these matters was resolved following provision of supplementary information by the organisation. The other was referred to the ACNC, who determined there was no information to support the complaint. Accordingly, the Department closed the matter.[40]

6.42 In 2014-15 the Department received one complaint, which is currently under investigation by the Department and has also been referred to the ACNC. No organisations have been deregistered on the basis of a complaint received in this period.[41]

6.43 Where a complaint has been made against an organisation on the Register, the Department may request further information from the organisation based on the information that has or has not been provided. If no information is provided, a recommendation may be made to the relevant Ministers to deregister an organisation. This would depend on the nature of the complaint and what information the Department has to hand, as a lack of information may make the capacity to make such a recommendation difficult.[42]

6.44 Where the Department cannot investigate a matter further due to a limitation to its powers, the Department may refer an organisation or persons to another relevant agency, such as the ATO, the Australian Federal Police, or the Australian Competition and Consumer Commission.[43]

38 Department of the Environment, *Submission 185*, p. 23.

39 Mr Writer, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 3.

40 Department of the Environment, *Submission 185.1*, p. 13.

41 Department of the Environment, *Submission 185.1*, p. 13

42 Mr Writer, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 3.

43 Mr Writer, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 3.

Role of other regulators

The ACNC

6.45 The ACNC's broad regulatory powers in relation to registered charities contrast with the limited powers available to the Department in relation to organisations with DGR status, listed on the Register.[44]

6.46 The ACNC has a number of regulatory powers in relation to potential breaches of the ACNC legislation, which can include:

- Information gathering and monitoring powers: inspecting, copying and retaining documents and entering premises with consent or a warrant;
- Enforcement powers: warnings, directions, enforceable undertakings, injunctions and suspension and removal of a charity's responsible persons; and
- Revocation of a charity's registration, in certain circumstances.[45]

6.47 Currently, if an organisation's charity status is revoked by the ACNC, the organisation may still retain its DGR status and standing on the Register, as the two processes are separate.[46]

6.48 The ACNC has memoranda of understanding (MOUs) with the ATO, ASIC, the Registrar of Indigenous Corporations and the Tertiary Education Quality and Standards Agency. These MOUs cover issues such as information sharing, mutual assistance in the exercise of the agencies' functions, and referral of compliance matters.[47]

The ATO

6.49 The ATO is responsible for the DGR endorsement of the majority of the 51 DGR categories, excepting the four Registers (Register of Environmental Organisations, Register of Cultural Organisations, Register of Harm Prevention Charities, and the Overseas Aid Gift Deduction Scheme).[48]

6.50 The onus is on organisations to understand the requirements for DGR endorsement, to seek an assessment of their eligibility in the first instance

44 ACNC, *Submission 189*, p. 14.

45 ACNC, *Submission 189*, p. 14. For the full suite of regulatory powers of the ACNC to apply, the organisation must be a 'federally regulated entity' pursuant to s. 205-15 of the ACNC Act 2012 (Cth).

46 ACNC, *Submission 189*, p. 14.

47 ACNC, *Submission 189*, p. 14.

48 Department of the Environment, *Submission 185*, p. 8.

and to ensure they continue to maintain eligibility through self-assessment.[49]

6.51 Once organisations have DGR status, they are legally obligated to advise the ATO if they are no longer entitled to endorsement.[50]

6.52 There is, however, no requirement for organisations to seek an assessment of their ongoing eligibility for DGR endorsement, nor is there a requirement for DGRs to report to the ATO on their ongoing compliance with the DGR requirements.[51]

6.53 The ATO identifies risks and non-compliant organisations through intelligence scans and assessments and the assessment of information recorded on ATOi, which is the ATO database holding information on entities and individuals of potential interest in risk identification.[52]

Transparency

6.54 The Committee heard complaints during the inquiry that the current regulatory and compliance framework relating to the Register lacked transparency.

6.55 For example, the Minerals Council of Australia submitted there was no systematic process whereby organisations were assessed on how they used tax-deductible donations, and whether such use was consistent with the organisation's principal purpose. While the Council noted that organisations were required to provide a 'brief statement on environmental outcomes for the financial year', it also noted that such statements were not made available for public scrutiny.[53]

6.56 Senator Matthew Canavan raised concerns about the information required to be reported by organisations on the Register, recommending that additional reporting obligations be placed on organisations, and that this information be publicly available:

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49 Australian National Audit Office (ANAO), *Audit Report No. 52 2010–11, Administration of Deductible Gift Recipients (Non-profit Sector): Australian Taxation Office,* p. 112.

50 ATO, *Self-governance checklist for non-profit organisations*, p. 11, <www.ato.gov.au/Non-profit/Your-organisation/In-detail/Checklists/Self-governance-for-not-for-profit-organisations/> viewed 12 February 2016. See also: Minerals Council of Australia, *Submission 497*, p. 6.

51 Australian National Audit Office (ANAO), *Audit Report No. 52 2010–11, Administration of Deductible Gift Recipients (Non-profit Sector): Australian Taxation Office*, pp. 112–13.

52 Australian National Audit Office (ANAO), *Audit Report No. 52 2010–11, Administration of Deductible Gift Recipients (Non-profit Sector): Australian Taxation Office*, pp. 115–16.

53 Minerals Council of Australia, *Submission 497*, p. 25.

> At a minimum, this information should include timely reporting of financial statements but could extend to include specific examples of how the organisation has met the principal purpose test and mandatory reporting of any criminal charges or convictions of employed staff or volunteers relating to the work of the organisation.[54]

6.57 Noting the increased compliance burden this would place on registered organisations, and that the majority of organisations were 'properly dedicated to improving the natural environment', Senator Canavan submitted that consideration should be given to restricting the application of additional requirements to organisations above a certain donation threshold, to ensure the additional requirements were 'well targeted'.[55]

6.58 Further, the Senator considered that greater resourcing of the Department could be funded through the introduction of an annual levy paid by organisations on the Register who receive substantial donations (of more than, say, $1 million per year). According to the Senator, a similar approach had been recommended by Treasury in its *Scoping Study for a National Not-for-profit Regulator*, albeit for a different purpose.[56]

6.59 Timber NSW submitted that details about monies entering an organisation's public fund, and how these funds were applied, should be placed in the public domain so that taxpayers could see where taxpayer funds were being allocated.[57]

6.60 As noted above, the Department is precluded from publishing the statistical information provided to it annually by organisations, due to taxpayer confidentiality provisions in the *Taxation Administration Act 1953* (Cth).[58]

6.61 However, the Department noted that as 75 per cent of environmental organisations listed on the Register were also registered charities with the ACNC, members of the public could gain access to some information provided to the ACNC that was made publicly available.[59]

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54 Senator Matthew Canavan, *Submission 493*, p. 23.

55 Senator Matthew Canavan, *Submission 493*, p. 23.

56 Senator Matthew Canavan, *Submission 493*, p. 24.

57 Timber NSW, *Submission 183*, p. 3.

58 Department of the Environment, *Submission 185*, p. 20; Mr Writer, Department of the Environment, *Committee Hansard*, Canberra, 26 November 2015, p. 12; Department of the Environment, *Submission 185*, Attachment I: 'Register of Environmental Organisations – Statistical Reporting Form 2014'.

59 Ms Musgrave, Department of the Environment, *Committee Hansard*, Canberra, 26 November 2015, p. 12.

6.62 The ACNC confirmed that information provided in charities' Annual Information Statements was made publicly available on the ACNC Register.[60]

6.63 The ACNC described the role of its public Register of charities:

> The public Register of charities is a key element in the ACNC's role in maintaining, protecting and enhancing public trust and confidence in the Australian NFP [not-for-profit] sector. In addition to making reported information available publicly, the ACNC uses this information in research publications, to provide the public, charity sector, government and others with accurate information about the Australian charity sector.[61]

Acting as a 'mere conduit'

6.64 The Committee heard some evidence suggesting that some organisations were acting as 'mere conduits' by accepting donations on behalf of organisations that had not achieved DGR status.

6.65 As outlined in Chapter 2, an environmental organisation on the Register may not act as a 'mere conduit' for the donation of monies or property to another organisation, body or person.[62]

6.66 Acting as a 'mere conduit' is considered akin to acting as an umbrella organisation for other environmental bodies. Organisations must therefore act to ensure that:

> … any allocation of funds or property to other institutions, bodies or persons will be made in accordance with the established objectives of the organisation and not be influenced by the expressed preference or interest of a particular donor to the organisation. Organisations can not act as a mere collection agency for moneys intended by a donor to be transferred onto other preferred institutions, bodies or persons.[63]

6.67 Further clarification was provided by the Department in a supplementary submission to the inquiry:

> The conduit policy is intended to stop registered organisations acting as collection agencies for tax-deductible donations intended

60 ACNC Act, s. 40–5; ACNC, *Submission 189*, p. 12.

61 ACNC, *Submission 189*, p. 12.

62 ITAA, s. 30-270(2).

63 Explanatory Memorandum to the Taxation Laws Amendment Bill (No. 5) 1992 (Cth) and the Income Tax (Dividends and Interest Withholding Tax) Bill 1992 (Cth), p. 43.

> by a donor to be passed on to another organisation or person. It is also intended to stop the donor from directing the organisation to act as a conduit and pass money onto their preferred organisation, body or person.[64]

6.68 The conduit rule, however, did not preclude an organisation from otherwise working with other groups to pursue their primary purpose:

> … the notion of acting as a mere conduit is purely about being directed to be a funnel for the money—which is different from organisations pursuing their purposes, working with others, funding groups, forming alliances or carrying on activities with groups. That is different from, 'I am going to give you money, only for you to give it to her'.[65]

6.69 Tax Ruling 2005/13 makes clear that if, through a conduit arrangement, the actual recipient of the benefaction is not a DGR status organisation, then no tax deduction is available to the donor. An essential component of a 'gift' in this scenario is that benefaction is intended and in fact conferred on the recipient.[66]

6.70 The Department advised that compliance with the conduit policy is within the scope of its audits conducted on approximately 10 per cent of statistical returns each year.[67]

6.71 Organisations such as Painted Dog Conservation Incorporated, suggested that clarification of the provisions regulating 'mere conduit' behaviour would assist organisations to comply with the requirement, while allowing organisations to legitimately provide financial and operational support to 'in situ conservation projects, working on the ground in Australia and abroad'.[68]

Options for strengthening reporting and compliance

6.72 The Minerals Council of Australia submitted that transferring the Register from the Department to the ATO would be a logical step towards greater scrutiny of listed entities and more effective enforcement of the ITAA. The

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64 Department of the Environment, *Submission 185.2*, p. 2.

65 Ms Musgrave, Department of the Environment, *Committee Hansard*, Canberra, 16 June 2015, p. 7.

66 Department of the Environment, *Submission 185.2*, p. 2.

67 Department of the Environment, *Submission 185.2*, p. 2.

68 Painted Dog Conservation Incorporated, *Submission 324*, p. 2; Ms Carol Shannon, Treasurer, Painted Dog Conservation Incorporated, *Committee Hansard*, Perth, 3 September 2015, p. 18.

Council envisaged that more rigorous monitoring and enforcement of existing rules would include:

- allowing the ATO discretion to conduct audits where there was prima facie evidence that tax-deductible donations had been used for an improper purpose;
- allowing ATO discretion to conduct audits where there were claims an organisation had falsely claimed deductible gift recipient status for their affiliates, or claims that organisations not listed on the Register had claimed tax-deductible status through an affiliate;
- requiring organisations to submit a written self-review of their purpose and activities to the ATO on an annual basis, to demonstrate their continued eligibility; and
- requiring the ATO to conduct a random audit of five per cent of all registered organisations per year.[69]

6.73 As noted earlier in this chapter, the ACNC has broad regulatory powers in relation to certain registered charities, in contrast to the Department's more limited powers in relation to organisations listed on the Register.[70]

6.74 The ACNC therefore noted that if registration as a charity became a prerequisite to endorsement as a DGR for environmental organisations, all organisations on the Register would be subject to the ACNC's power to revoke charity registration following proof of a breach of ACNC legislation, with full ACNC regulatory powers available where an organisation meets certain criteria under the *Australian Charities and Not-for-profits Act 2012* (Cth).[71]

Committee comment

6.75 The Committee notes its recommendation made in Chapter 3 of this report that environmental organisations should be required to register as an environmental charity with the ACNC, before being eligible to seek endorsement as a DGR with the ATO.

6.76 Given the wide-ranging investigation and compliance powers available to both the ACNC and the ATO, the Committee takes the view that most of the issues of compliance and enforcement raised in relation to the Register

69 Minerals Council of Australia, *Submission 497*, p. 28.

70 ACNC, *Submission 189*, p. 14.

71 ACNC, *Submission 189*, p. 14. For the full suite of regulatory powers of the ACNC to apply, the organisation must be a 'federally regulated entity' pursuant to s. 205-15 of the ACNC Act.

during this inquiry will be alleviated, should the Committee's recommendation be adopted.

6.77 Based on evidence from the ACNC provided throughout this inquiry, the Committee is confident of the ACNC's capacity to adequately respond to most community concerns or queries raised with it, about environmental charities.

6.78 The Committee considers that to ensure matters of compliance are dealt with promptly, the ACNC and the ATO must be adequately resourced to enable the agencies to make any necessary inquiries, undertake any investigations, or take any other actions available to them.

6.79 The Committee is of the view that in addition to meeting annual reporting requirements with the ACNC to maintain charity status, organisations should also be required to submit an annual self-assessment to the ATO regarding their continuing eligibility for DGR status.

Recommendation 7

The Committee recommends that environmental organisations with deductible gift recipient status be required to submit an annual self-assessment to the Australian Taxation Office supporting their continuing eligibility for endorsement as a deductible gift recipient.

6.80 The Committee notes that the ATO already recommends that DGRs complete a self-assessment on an annual basis, and provides a standard form on its website. However, this is not a legal requirement to maintain endorsement.

6.81 Noting the Committee's comments in Chapter 5, the Committee recommends that organisations be required to disclose any arrests, charges or convictions for illegal activity in relation to any employees or responsible members of the organisation, as part of the self-assessment.

6.82 The Committee notes that throughout the inquiry, it heard a number of claims that some organisations appeared to be acting as 'mere conduits' for the donation of money or property to other entities or individuals.

6.83 For example, there were suggestions that some environmental DGRs were claiming to share tax-deductible recipient status with unregistered entities. There were also suggestions that some unregistered entities were claiming to have DGR status, and were soliciting tax-deductible donations on that basis, despite not actually having such status.

6.84 While the Committee cannot investigate individual claims of this nature, the Committee considers it important to ensure that public trust, accountability, and transparency in the DGR endorsement process remains. This should include strict enforcement of the rules for DGR endorsement, including the no-conduit policy.

6.85 The Committee therefore recommends that the provisions relating to conduit behaviour in the ITAA with respect to environmental DGRs be reviewed to ensure they are both clear and enforceable. Further, efforts should be made by the ATO to inform environmental DGRs of their continuing obligations not to engage in conduit behaviour.

Recommendation 8

The Committee recommends that the Commonwealth Treasury, in consultation with the Australian Taxation Office, review the provisions in the *Income Tax Assessment Act 1997* (Cth) prohibiting conduit behaviour, with a view to providing clear guidance to environmental deductible gift recipients, as to the types of activities that would constitute conduit behaviour.

6.86 It is the Committee's view that unregistered organisations should not be able to solicit tax-deductible donations on the basis of an affiliation with an environmental DGR. For an organisation with an affiliate structure, each affiliate of that organisation soliciting tax-deductible donations from the public should be required to obtain DGR endorsement in its own right.

6.87 The Committee also recommends that the ATO undertake a thorough assessment of at least 10 per cent of environmental DGRs per year, to ensure ongoing compliance with obligations to maintain DGR endorsement.

6.88 Finally, having regard to taxpayer confidentiality, the Committee recommends that the ATO, in consultation with the Commonwealth Treasury, investigate options for establishing annual reporting requirements, with a view to reported information being made available to the public.

Recommendation 9

The Committee recommends that the Australian Taxation Office, in conjunction with the Commonwealth Treasury, investigate options for establishing annual reporting requirements for organisations to maintain deductible gift recipient status as an environmental organisation, where such reporting is to be made publicly available.

6.89 The Committee envisages that annual reporting should not unnecessarily duplicate the reporting requirements of the ACNC, but instead focus on the specific requirements for endorsement as a DGR and information that was formerly captured by the Department.

6.90 Having regard to the Committee's comments in Chapter 4, the Committee recommends that organisations be required to report sufficient financial information to demonstrate compliance with the requirement to undertake environmental remediation work.

6.91 Noting the Committee's support for reducing duplication in reporting requirements, the Committee supports continued information-sharing between the ACNC and the ATO to reduce the overall reporting burden, while still achieving the outcomes intended by these recommendations.

6.92 The Committee is confident that its recommendations, taken together and fully implemented in the spirit intended by the Committee, would streamline processes and reduce the regulatory burden on environmental DGRs, while bolstering public confidence in, and improving the transparency of, environmental charities and the not-for-profit sector more broadly.

The Hon. John Cobb MP
Chair
18 April 2016

Additional comments—Mr Jason Wood MP

Recommendation 5

I have concerns about this recommendation, as there are a number of groups with deductible gift recipient (DGR) status or future groups that want to apply for DGR status that would have no remediation work or would find it very difficult to prove the 25 per cent target. I do note that in paragraph 4.84 of the Committee's report, the Committee suggests that environmental DGRs should be allowed to provide funding to other environmental DGRs to meet the requirement. However, this would therefore be increasing the reporting burden on other groups, and in my view this would be counter-productive.

The DGR groups impacted, which would not reach this target or any target for that matter, would be groups solely focused on education and research, advocacy, including environmental law, and overseas activities. Then there are other groups which do not do specific on the ground work or would find it difficult to distinguish between on the ground work and other activities, and to prove some would be cumbersome. A list of groups has been included below which in one way or another would be impacted by the issues previously mentioned.

As a personal example of a group in my electorate of La Trobe which is in the process of applying for DGR status, has no on the ground work, and would not meet even a one per cent target, "For the Love of Wildlife" specifically focuses as per their constitution on education, exposing crimes against nature, and policy and advocacy, specifically supporting African lions, and actively worked with myself to stop the importation of African lion trophies into Australia, and accordingly would therefore not quality for DGR status. It should be noted that For the Love of Wildlife actively lobbies politicians, nationally and internationally, and travels both interstate and overseas to increase awareness of the barbaric

practice of canned hunting, where lions are raised for one purpose and that is to be hunted.

Listed below are some of the current DGR groups that would likely not meet the 25 per cent target, or have raised other issues which would make reaching the 25 per cent target very difficult.

Education and research

- Beyond Zero Emissions, Submission 188
- Great Barrier Reef Foundation, Submission 279

Advocacy

- Environment Victoria, Submission 252
- Friends of the Earth Australia, Submission 297
- Greenpeace Australia Pacific Limited, Submission 354
- Australian Youth Climate Coalition, Submission 359
- The Wilderness Society, Submission 411

Representation of member groups

- Nature Conservation Council of NSW, Submission 369

Environmental law advocacy

- Tarkine National Coalition, Submission 181
- EDOs of Australia, Submission 403
- Environmental Justice Australia, Submission 443

Overseas activities

- Australian Orangutan Project, Submission 254
- Wildlife Asia, Submission 277

In addition, below are references to evidence given at public hearings where representatives of environmental DGRs discuss the distinction between on-ground work and other activities.

Environmental DGRs that indicated that they do not specifically do on-ground work

- Ecological Society of Australia, Brisbane, 14 July 2015
- Sustainable Population Australia, Adelaide, 1 September 2015
- National Parks Australia Council, Canberra, 18 September 2015
- Conservation Council ACT Region, Canberra, 18 September 2015

Environmental DGRs that indicated that they do not (or find it difficult to) distinguish between on-ground work and other activities

- Australian Marine Conservation Society, Brisbane, 14 July 2015
- Tasmanian Conservation Trust, Hobart, 21 July 2015
- Conservation Council SA, Adelaide, 1 September 2015
- Conservation Council of Western Australia, Perth, 3 September 2015
- National Parks Association of the ACT, Canberra, 18 September 2015
- Australian Network for Plant Conservation, Canberra, 18 September 2015
- WWF Australia, Canberra, 18 September 2015
- Farm Tree and Landcare Association, Melbourne, 21 September 2015
- Nature Conservation Council of NSW, Sydney, 17 November 2015

Recommendation 6

I do have concerns about this recommendation. Firstly, drafting laws or regulations would be very complex and could only practically work if a DGR at the board or committee level made a decision to use violence or damage to property. In this case I would support sanctions against the DGR, however I also believe this scenario would be very unlikely and serious offences would more likely be made by individuals on a random basis. Also, for offences which are not sanctioned at the board or committee level, or do not involve violence or damage to property, current state laws would suffice.

Also it should be noted that it was due to environmental activists, through their efforts and through the use of a blockade, that major environmental disasters have been prevented. An example would be the Franklin River in Tasmania, where many activist groups openly supported campaigns to stop the damming of the river. These protests, which were actively supported by environmental groups, would be prohibited under this recommendation and history would now show

that, if it was not for these protests and national awareness, the World Heritage Franklin River would have been dammed.

I also see an issue with individuals who financially support DGR groups that protest each year in the Sothern Ocean against whale hunting. Australians are horrified to see Japanese whalers kill whales in an area declared "The Australian Whale Sanctuary", and often provide financial support knowing that they are supporting a DGR group now or into the future that focuses on protecting whales. If these recommendations are approved, these supporters could be sanctioned because of their actions to stop whale hunting.

Mr Jason Wood MP
Member

Labor Members' Dissenting Report

Introduction

The Labor members of the House of Representatives Standing Committee on the Environment, Andrew Giles MP, the Hon. Mark Butler MP, Sharon Claydon MP, the Hon. Mark Dreyfus MP and Tony Zappia MP, wish to acknowledge the work of the committee secretariat over the course of this inquiry. We appreciate their hard work, and the professional manner in which it was done. We also acknowledge the contributions of all who contributed to this inquiry, whether by way of presenting evidence, providing a submission, or otherwise setting out their views. These contributions made clear to us the importance of this inquiry to Australians.

Over the course of the inquiry the committee heard from a diverse array of environmental organisations and other interested groups from around the country. The submissions and evidence demonstrated the extraordinary contribution of Registered Environmental Organisations to the preservation of our natural environment, and to the health of our democracy.

The overwhelming weight of evidence presented to the committee points to the vital importance of maintaining the tax deductibility of donations to environmental organisations, without imposing further conditions or constraints on the operation of those organisations.

Despite the efforts of government members, no disinterested evidence was adduced in support of the proposition that a distinction should be drawn between so-called 'on ground' environmental activities on the one hand, and advocacy, on the other.

In these circumstances, the Labor members of the committee find it extraordinary that government members have recommended to, in effect, constrain the capacity of environmental organisations to engage in advocacy work. We completely reject this undemocratic proposition. Citizens should be supported to question government decision-making and corporate power, not manoeuvred into silence by legislative and administrative action.

However, government members have, seemingly, preferred ideology and interest to evidence. We are particularly concerned by the apparent reliance on the submission and evidence of Senator Matthew Canavan in support of contentious recommendations (to which we are opposed) in preference to expert views and submissions given by those working in or with environmental organisations.

Governments should be slow to seek to define the bounds of legitimate non-government activity in a healthy democracy.

Recommendations 1, 2, 3, 4, 7, 8 and 9

Labor members are broadly supportive of these recommendations, which largely reflect the weight of the evidence received and the terms of reference of the inquiry. We are concerned that appropriate transitional arrangements, and consultation with affected organisations, must take place in good time prior to the introduction of measures to give effect to these recommendations by government.

Recommendation 5

The majority report has recommended a minimum of a 25 per cent proportion of environmental organisations' annual public expenditure be granted towards 'remediation work'.

This recommendation to incorporate a 25 per cent remediation requirement is inconsistent with the vast majority of the submissions before the inquiry. In our view, governments should be very slow to seek to define the bounds of legitimate non-government activity. This goes to the heart of a functioning civil society, and a healthy democracy.

We reject the proposal advanced at 4.81 of the majority report, that a precondition of DGR status must be a requirement to "undertake a mix of activities, and that this mix should include practical environmental work such as remediation".

We are unpersuaded by the assertion of government makes of 4.87 that they anticipate that "such a requirement would not restrict the freedom of environmental DGRs to engage in advocacy or public debate, nor would it exclude organisations engaging in these activities from attracting DGR status."

In its submission, The Wilderness Society wrote that setting a limit for advocacy work would "create unnecessary regulatory burden for the administration of the register as environmental organisations would need to demonstrate the percentage of organisational resources dedicated to advocacy activities, which, if defined as in Canada, is an incredibly complex and subjective task and inconsistent with the Australian Government's stated policy objectives of reducing red tape and regulatory burden."

The weight of evidence rejects the premise, advanced by government members, that there exists a dichotomy between advocacy and 'on ground' work. The evidence instead shows that it will increase red tape and treat environmental organisations differently to other not for profit organisations.

Moving away from a purpose test to one based on activities creates red tape on both ends and acts as a brake on innovation through constraining the manner in which organisations can seek to achieve their objectives.

For example AYCC acknowledged that whilst activities such as tree planting are important "large- scale systematic changes to protect the environment, especially to address climate change, are impossible to achieve without advocacy."

Submissions and evidence received demonstrate that advocacy and environmental conservation are intrinsically linked. However this is not reflected in this recommendation. Regard ought to have been had to the influential High Court case *Aid/Watch Incorporated v Commissioner of Taxation* (2010). This decision not only clarified the role of charities within Australia's democratic process, it also recognised advocacy and engagement in political process by charities as legitimate, indeed vital, activities to be undertaken by registered charities.

> Political speech by charities enriches the political process by encouraging political debate, facilitating citizen participation and engagement and promoting political pluralism.[1]

1 *Aid/watch incorporated v Commissioner of taxation of the commonwealth of Australia* (2010) 241 CLR 539.

The High Court has long recognised an implied freedom of political communication in the Australian Constitution. It is deeply concerning that a restriction, in effect, on political speech has been proposed.

Several submissions outlined the importance of public participation in environmental protection and the requisite tax concessions afforded in compensation for financial contributions, enrolled through DGR status.

The current tax system provides benefits for different stakeholder groups within the community, including, of course, the capacity for businesses to claim deductions in respect of the costs of their lobbying—regardless of the public benefit associated with their activities.

Members of the public who receive the benefit of a tax deduction if they choose to donate to an environmental organisation are contributing to a public good. This contribution is believed to enhance political engagement and representative democracy, and also to give a voice to those outside Parliament. This was referenced in the final report in Dr Anna Olijnyk's submission:

> Many people may not have the time or the expertise to engage in advocacy on their own behalf, and we think that DGR status is an important way of encouraging them to contribute to the public debate by way of financial support.[2]

We agree it is an important way of supporting a robust civil society. Also, on a practical level, government members have failed to have regard to the resourcing implications to oversight this recommendation, or to its impact on the operation of environmental organisations, which would be required to devote resources to administration in place of advancing their objectives. This, in circumstances, where the recommendation seems to be at odds with evidence and where 'efficiency' is a key element of the terms of reference of the inquiry. Indeed, the majority report appears to recognise this challenge at 4.82, in discussing 'definitional issues'.

2 Cited in: House of Representatives Standing Committee on the Environment, *Inquiry into the Register of Environmental Organisations*, p. 52.

Recommendation 6

The Labor members of the committee have several concerns relating to this recommendation, regarding the practicality and monitoring of the potential penalties imposed and relevant privacy matters pertaining to disclosure.

The report also details a compliance framework in which an organisation with DGR status must disclose any arrests, charges or convictions for illegal activity in relation to any employee or responsible member for the organisations, as a part of their self-assessment.

Given the nature of many environmental organisations is based on volunteer networks and promotes inclusive environments with large groups of people, the extent to which this recommendation could be implemented is questionable. For example Conservation Volunteers Australia submitted that the organisation engages over 12,500 volunteers in practical conservation activities throughout Australia.[3]

Further, this recommendation is unhelpful when dealing with concerns about illegal behaviour within organisations. We condemn any illegal behaviour, and note that laws already exist to deal with these matters. The recommendations proposed would create unnecessary red tape, overlap existing laws and provide implementation difficulties.

Philanthropy

A major public policy challenge addressed in the evidence—however, not the subject of the recommendations—is that of encouraging philanthropic gifting and not seeking to confine the capacity of people, or institutions, to give to the organisations they wish to support.

In its submission, AEGN points to the strengths of philanthropy within both the public and private sectors. They also note the growth in the sector where people who have been successful in business are starting to "give back to the community" by using philanthropy as a vehicle.

3 Mr Ian Walker, Director, Conservation, Conservation Volunteers Australia, *Committee Hansard,* Melbourne, 22 September 2015, p. 32; cited in: House of Representatives Standing Committee on the Environment, *Inquiry into the Register of Environmental Organisations*, p. 52.

Furthermore, AEGN points towards the benefits philanthropy gives to newer organisations, who may eventually receive Government funding, however, in the initial stages need financial support to succeed.

In these circumstances, it is disappointing that the recommendations in the majority report have not had regard to this question of supporting philanthropic gifting, in particular where other recommendations may impact the capacity of individuals to donate to the causes they choose to support.

Mr Andrew Giles MP
Deputy Chair

The Hon. Mark Butler MP
Member

The Hon. Mark Dreyfus QC MP
Member

Mr Tony Zappia MP
Member

Ms Sharon Claydon MP
Supplementary Member

A

Appendix A: List of submissions

1 Ms Anne Bridley
2 Mr Glen Daly
3 Ms Naomi Callaghan
4 Australian Jewish Democratic Society
5 F.A.W.N.A. (NSW) Inc.
6 Regent Honeyeater Project Inc.
7 Mr Chuen-Tat Kang
8 Clarence Environment Centre
9 Natural History Society of South Australia Inc.
10 Mount Alexander Sustainability Group
11 Northern Tablelands Wildlife Carers Inc.
12 ANGAIR Inc.
13 Daintree Rainforest Foundation Ltd
14 Public Transport Users Association
15 Mr Gary Wynen
16 Dr Sid French
17 Ms Maria Sola
18 Australian Food Sovereignty Alliance
19 Ms Robyn Lipshut
20 Koala Action Inc.
21 Ms Susan Beale
22 Ms Linda Groom
23 Citizens Own Renewable Energy Network Australia Inc. (CORENA)
24 Ms Karen Brisbane

25 Far North Queensland Wildlife Rescue Association Inc.

26 Mr Bill and Glenys Stockdale

27 Worlds End Conservation Pty Ltd

28 Ms Felicity Crombach

29 Tolga Bat Rescue and Research

30 Friends of Parks Inc.

31 Mr John Foster
(An example of 61 form submissions with similar content)

32 Ms Estelle Ross

33 Cool Australia

34 Mr Nick Jaffe

35 Ms Elizabeth Fraser

36 BERG Mt Martha

37 Ms Lisa Anderson

38 North Queensland Wildlife Care Inc.

39 Ms Christa Ludlow

40 Public Law and Policy Research Unit, University of Adelaide
40.1 Supplementary to Submission 40

41 Fishcare Victoria Inc.

42 Coastal Communities Protection Alliance—Wooli Inc.

43 Mrs Cara Clark

44 Ms Judy Glick
(An example of 183 form submissions with similar content)

45 Palerang Local Action Network for Sustainability Inc.

46 *Name withheld*

47 Mr Richard Westerman

48 Mr Justin McDermott

49 Dr Angela Munro

50 Mr Fernando Longo

51 350.org Australia
(An example of 12 form submissions with similar content)

52 Dr John Nightingale

53 Ms Sharon Macaulay

54 Mr Doug Evans

55 Ms Leigh Callinan

56 Ms Janet Stein
57 Mr Gerard Velnaar
58 Mr Peter Callender
59 The Hon. David Harper AM QC
60 Mr Dale Hess
61 Ms Maria Arranz
62 Mr Geoff Cumming
63 Ms Linda Johns
64 Ms Cathie Steele
65 Ms Melanie Scaife
66 Ms Rosemary Hook
67 Mr Brendan Morse
68 Mr Ben Viney
69 Mr Peter Evans
70 Mr Adam Hall
71 Mr Steven Douglas
72 Ms Gail Wyatt
73 Ms Kathleen Robson
74 Associate Professor Martin Mulligan
75 Goulburn Valley Environment Group Inc.
76 Mr Ray Wyatt
77 Ms Lynn Wood
78 Barmah-Millewa Collective—Friends of the Earth Melbourne
79 Mr Martin Taylor
80 Mr Kemran Mestan
81 Friends of the Long Lost Phasmid Inc.
82 Ms Claudia Gaber
83 Mr Robin Baillie
84 Mr Jeff Telfer
85 Ms Joanna Packer
86 Dr Cameron Holley
87 Ms Jacqueline Hine
88 Mr Peter McCallum
89 Ms Belinda Allison

90 Mr Eric Roberts
91 Mr Julian Donlen
92 Ms Janet Ellis
93 Ms Maureen Cooper
94 Mr Stafford Sanders
95 Mr David Vernon
96 Mr Tony Doyle
97 Mr Neil Cameron
98 Friends of Gardiner's Creek Valley Inc.
99 Mr Ian Whitford
100 Council of Heads of Australian Botanic Gardens Inc. (trading as Australian Seed Bank Partnership)
101 Mr Ken Blackman
102 Wildlife Conservancy of Tropical Queensland
103 Mr Graeme McLeay
104 Borneo Orangutan Survival (BOS) Australia
105 North East Downs Landcare Group Inc.
106 The Bob Brown Foundation
107 Ms Kate Jeffery
108 Friends of the Earth Brisbane
109 Make Poverty History
110 Ms Ellen Bock
111 Ms Janet Dawson
112 Mr Sabine Gonelli
113 Ms Kathy Sinclair
114 Mr Wies Schuiringa
115 Ms Dulcie Sutton
116 Mandurah Wildlife Rescue and Hospital
117 Mr Clive Berger
118 Mr David Kault
119 Jane Goodall Institute Australia
120 Mr James Matan
121 Mr Anthony Dent
122 Wildlife Preservation Society of Australia Ltd

123 Ms Jennifer Brett
124 Ms Samantha Kent
125 Ms Kay Johnson
126 Ms Carmel Brown
127 Mr Dale Shaddick
128 Ms Sue McCarthy
129 Mr Roger Callen
130 Ms Caroline Matthews
131 Environment East Gippsland Inc.
132 Ms Melanie Chilianis
133 Mr Bradford Sherman
134 Mr Paul Kelly
135 Mr Salome Argyropoulos
136 Dr Tony Higgs
137 Ms Kathryn Davy
138 Ms Cecilia Cairns
139 Ms Judith Blyth
140 Mr Jonathan Peter
141 North Coast Environmental Council Inc.
142 Ms Margaret Versey
143 Ms Eve Lamb
144 Wildcare Australia Inc.
145 Ms Lorna Hempstead AM
146 Mr Richard Whitebrook
147 Mullum SEED Inc.
148 International Environmental Weed Foundation
149 Mr Cameron Murray
150 *Name withheld*
151 Pelican and Seabird Rescue Inc.
152 Ms Cheryl Mainard
153 Ms Carole Rayner
154 The Field Naturalists Club of Victoria Inc.
155 Eagles Nest Wildlife Hospital Inc.
156 Sustainable Gardening Australia Foundation

157 Foundation for Rabbit Free Australia
158 North Queensland Conservation Council
159 Mr John Lees
160 Mr Ralph Cartwright
161 Wildlife Land Fund Ltd
162 Mr Richard Sanders
163 Australian Coastal Society
164 OceanWatch Australia Ltd
165 Centre for Ecological Learning Inc.
166 Ms Dereka Ogden
167 Mr Simon Bown
168 Mr David Williams
169 Friends of Glenfern Valley Bushlands
170 BirdLife Australia
171 Bribie Island Environmental Protection Association Inc.
172 Ms Andrea MacKay
173 Ms Jackie Yowell
174 The Sustainability Street Institute
175 Associate Professor James Goodman
176 Ms Lisa Kendal
177 Permaculture Australia
178 Conservation Council of Western Australia Inc.
179 Wildlife Information Rescue and Education Service
180 100% Renewable Community Campaign Inc.
181 Tarkine National Coalition Inc.
182 Geelong Field Naturalists' Club Inc.
183 Timber NSW
184 Environs Kimberley Inc.
185 Department of the Environment
185.1 Supplementary to Submission 185
185.2 Supplementary to Submission 185
186 Friends of Leadbeater's Possum Inc.
187 Friends of the Earth Kuranda
188 Beyond Zero Emissions
188.1 Supplementary to Submission 188

189 Australian Charities and Not-for-profits Commission
189.1 Supplementary to Submission 189
190 Florentine Protection Society
191 Potoroo Palace
192 Mr Tim Cummins
193 Ms Heidi Hardisty
194 Save African Rhino Foundation
195 Professor Paul Martin
196 Friends of Lismore Rainforest Botanic Gardens
197 Mr Terry Spackman
198 Campaign for Australian Aid
199 Condamine Catchment Natural Resource Management Corporation Ltd
200 Friends of Sherbrooke Forest Inc.
201 Friends of Lake Claremont Ltd
202 SEE-Change
203 North East Tasmania Land Trust Inc.
204 Mawson's Huts Foundation
205 Mr Richard Green
206 Mr James Le Cornu
207 Mr Lou Baxter
208 Wildflower Society of Western Australia Inc.
209 Free the Bears Fund Inc.
210 Hawkesbury Environment Network Inc. (HEN)
211 Peninsula Field Naturalists Club
212 Friends of the Koalas Inc.
213 Lane Cove Bushland and Conservation Society Inc.
214 Ms Joy Mettam
215 Mr Gordon Claridge
216 Clean Energy for Eternity Inc.
217 Bulimba Creek Catchment Coordinating Committee
218 ACT Wildlife
219 Spirit of Bruny
220 Not-for-profit Project, University of Melbourne Law School
221 Fred Hollows Foundation

222 GetUp

223 *Name withheld*

224 Wildlife Preservation Society of Queensland

225 Arid Lands Environment Centre

226 Ms Tasmin Kelly

227 Mr David and Sarah Minifie

228 Embark Australia Ltd

229 Blue Mountains Conservation Society

230 Mrs Patricia McKelvey

231 Silvery Gibbon Project Inc.

232 Madden Sainsbury Foundation

233 Trees for the Evelyn and Atherton Tablelands Inc.

234 Potoroo Palace Native Animal Education Sanctuary
234.1 Supplementary to Submission 234

235 Ms Lynn Saunders

236 Bat Conservation and Rescue Qld Inc.

237 Ms Claire Brennan

238 National Toxics Network Inc.

239 Mrs Rose Adams

240 Ms Alison Wylie

241 Dr Susan Laurance and Dr William Laurance

242 The Norman Wettenhall Foundation

243 Environmental Legacy Foundation Ltd

244 Hunter Environment Lobby Inc.

245 Gecko—Gold Coast and Hinterland Environment Council Association
245.1 Supplementary to Submission 245

246 Dolphin Research Institute Inc.

247 Gippsland Environment Group Inc.

248 Doctors for the Environment (Australia) Inc.

249 Voiceless Ltd

250 McKinnon Family Foundation

251 Paddy Pallin Foundation

252 Environment Victoria

253 Morris Family Foundation

254 The Orangutan Project
255 Hamilton Field Naturalists Club
256 Mr Jos and Helen van den Berg
257 Queensland Resources Council
258 Ms Kathy Faldt
259 Environmental Defenders Office North Queensland
260 NSW Minerals Council
261 National Parks Australia Council
262 Yingura Women's Trust
263 Dr Pam Schultz
264 Unions NSW
265 Ms Wendy Savage
266 Ms Rosie White
267 The Economics Team
268 Queensland Trust for Nature
269 Mr John Poppins
270 Friends of Peacehaven Botanic Park Inc.
271 Sunshine Coast Environment Council
272 Wentworth Group of Concerned Scientists
273 Bass Coast Landcare Network
274 Koala Action Inc.
275 Sustainable Table
276 Conservation Ecology Centre
277 Wildlife Asia
278 Purves Environmental Fund
279 Great Barrier Reef Foundation
279.1 Supplementary to Submission 279
280 Moggill Creek Catchment Management Group
281 Fraser Island Defenders Organisation
282 Parklands Albury Wodonga Ltd
283 WWF–Australia
284 Mr Daan Spijer
285 Mr Peter Flanagan
286 The Thomas Foundation

287 Environment Tasmania Inc.
288 Humane Society International Inc.
289 Conservation Volunteers Australia
290 Friends of the Koala Inc.
291 Care For Hedland Environmental Association Inc.
292 World Animal Protection Ltd
293 Mr David Rothfield
294 Mr Neil Smith
295 Ms Jenni Bransgrove
296 Blackburn and District Tree Preservation Society Inc.
297 Friends of the Earth Australia
298 Ms Lesley Keegan
299 Dandenong Ranges Renewable Energy Association Inc.
300 Wildlife Rescue South Coast Inc.
301 Latrobe Valley Field Naturalists Club
302 Friends of Grasslands
303 Friends of Stradbroke Island Association Inc.
304 *Name withheld*
305 Asian Rhino Project Inc.
306 Civil Liberties Australia Inc.
307 The Crossing Land Education Trust
308 Ms Sonia Laws
309 *Name withheld*
310 *Name withheld*
311 Ms Karen Vegar
312 Ms Sheila Davis
313 Mr Philip Clark
314 *Name withheld*
315 Ms Carmel Leahy
316 Bob Irwin Wildlife and Conservation Foundation Inc.
317 Dr Margaret Beavis
318 Dr Graeme Lorimer
319 We Fish
320 Friends of Willunga Basin

321 Sustainable Population Australia Inc.
321.1 Supplementary to Submission 321
322 Ms Monica Brindle
323 Ms Heidi Walker
324 Painted Dog Conservation Inc.
325 Mr Patrick O'Connor
326 Mr Stephen Whately
327 Tasmanian Land Conservancy
328 Be The Change Ltd
329 Magnetic Island Community Development Association Inc.
330 School Communities Recycling All Paper (SCRAP) Ltd
331 Magnetic Island Nature Care
332 Save Our Waterways Now
333 Ku-ring-gai Bat Conservation Society Inc.
334 Ballarat Renewable Energy and Zero Emissions (B.R.E.A.Z.E.) Inc.
335 Dr Greg Ogle
336 Queensland Murray–Darling Committee Inc.
337 Little River Landcare Group Inc.
338 Mr Jeremy Tager
339 Australian Solar Council
340 The Colong Foundation for Wilderness
341 Earth Trust
342 Mr Andrew Gaines
343 Mr Peter Martinovich
344 Quit Coal
345 Phillip Island Conservation Society Inc.
346 Alternative Technology Association
347 Wildcare Deslacs
348 Castan Centre for Human Rights Law
349 Ecological Society of Australia
350 Keep Australia Beautiful National Association
351 Community Environment Network Inc.
352 EcoTransit Sydney
353 Mr John Barnes

354 Greenpeace Australia Pacific Ltd
354.1 Supplementary to Submission 354
355 Port Phillip EcoCentre Inc.
356 Tasmanian National Parks Association
356.1 Supplementary to Submission 356
357 Cancer Council NSW
358 Ports Australia
359 Australian Youth Climate Coalition Ltd
360 Mr Mark Poynter
361 Ryde–Hunter's Hill Flora and Fauna Preservation Society
362 *Name withheld*
363 The Earth Welfare Foundation
364 1 Million Women (Australian Climate Coolers Ltd)
365 Marine Discovery Centre Bondi Beach Inc.
366 Ross Knowles Foundation
367 Keep Australia Beautiful Council (QLD) Inc.
368 Queensland Conservation Council
369 Nature Conservation Council of NSW
370 Community and Public Sector Union
371 Australian Psychological Society
372 Friends of the Gold Coast Regional Botanic Gardens Inc.
373 Centre for Education and Research in Environmental Strategies Inc.
374 International Fund for Animal Welfare (Australia) Pty Ltd
375 Capricorn Conservation Council Inc.
376 Australian Marine Conservation Society Inc.
377 The Peter Cullen Trust
378 Connecting Country (Mount Alexander Region) Inc.
379 Mrs Anne Grindrod
380 Australian Network for Plant Conservation Inc.
381 Friends of the Australian National Botanic Gardens Inc.
382 Australian Speleological Federation Inc.
383 Western Region Environment Centre
384 Wildlife Volunteers Association Inc.
385 St Vincent de Paul National Council

386 Merri Creek Management Committee Inc.
387 Australian Conservation Foundation
388 Ms Joanna McCubbin
389 Cairns and Far North Environment Centre
390 Mr Chris Walker
391 Mr Kendall Lovett
392 Ms Ruby Rosenfield
393 Australian Rainforest Conservation Society Inc.
394 Maroochy Waterwatch Inc.
395 Australian Communities Foundation
396 Western Port Biosphere Reserve
397 Trees In Newcastle
398 Greening Australia
399 Birds Queensland
400 Mr Ian Penrose
401 Lake Cowal Foundation
402 North Head Sanctuary Foundation Inc.
403 EDOs of Australia (Australian Network of Environmental Defenders Offices Inc.)
404 SEA LIFE Trust ANZ
405 QAILS Inc.
406 The Nature Conservancy
407 Zoos Victoria
408 Bush Heritage Australia
409 Friends of Mallacoota
410 Ms Christine McNamara
411 The Wilderness Society
412 Clarence Valley Conservation Coalition Inc.
413 Bowen Business Chamber
414 Coolum District Coast Care Group Inc.
415 Wildcare Queanbeyan Inc.
416 Australian Earth Laws Alliance
417 Greenfleet
418 Mr Brett Whiteley MP

419 Ms Leigh Ewbank

420 Philanthropy Australia
420.1 Supplementary to Submission 420

421 The Myer Foundation

422 The Climate Institute

423 Property Rights Australia Inc.

424 Conservation Council SA
424.1 Supplementary to Submission 424

425 Community Council for Australia

426 Dr Joan Staples

427 Nerang Community Association Inc.

428 Save the Bilby Fund

429 Human Rights Law Centre

430 Oxley Creek Catchment Association

431 Mackay Conservation Group
431.1 Supplementary to Submission 431

432 Sporting Shooters' Association of Australia

433 Landcare Tasmania Inc.

434 Eastern Hills and Murray Plains Catchment Group

435 Amnesty International Australia

436 North East Hills Environmental Conservation Association Inc.

437 Climate Change Australia—Hastings Branch

438 Australian Council of Social Service

439 National Parks Association of NSW

440 Ms Katie O'Bryan

441 Tasmanian Conservation Trust Inc.

442 Pastoralists and Graziers Association of WA Inc.

443 Environmental Justice Australia

444 Community Power Agency Co-operative Ltd

445 Dr Beth Schultz AO

446 Ms Margy Gaynor

447 Mr Gary Fooks

448 Mallee Sustainable Farming

449 The Mullum Trust

450 Ms Barbara Brown

451 Mosman Parks and Bushland Association

452 National Parks Association of the Australian Capital Territory

453 Ms Miriam Hazel

454 Society for Responsible Design Inc.

455 *Name withheld*

456 REC Agents Association

457 Victorian Government

458 Lord Mayor's Charitable Foundation

459 Urban Ecology Australia Inc.

460 Community Weed Alliance of the Dandenong Ranges

461 Conservation Council ACT Region
461.1 Supplementary to Submission 461

462 Basin Sustainability Alliance

463 Nature Foundation SA Inc.

464 Ms Tarah Medcalf

465 Ms Jenny Denton

466 Mr Alan Duggan

467 Australian Animals Care and Education Inc.

468 Gene Ethics

469 Ms Cheryl Wragg

470 Emeritus Professor David Farrier

471 Community Legal Centres Association (WA) Inc.

472 Mr George Harris

473 Reichstein Foundation

474 ErinEarth

475 Ms Sarah Deards
(An example of 2 form submissions with similar content)

476 Australian Environmental Grantmakers Network
476.1 Supplementary to Submission 476

477 Wildlife Preservation Society of Queensland - Townsville Branch
(An example of 4 form submissions with similar content)

478 Mr Adrian Wedd
(An example of 655 form submissions with similar content)

479 Ms Gillian Stroud
(An example of 2 form submissions with similar content)

480 Baw Baw Sustainability Network
480.1 Supplementary to Submission 480

481 Ms Tessa Fluence
(An example of 4,466 form submissions with similar content)

482 Householders' Options to Protect the Environment Inc.
(An example of 114 form submissions with similar content)

483 Ms Janet Shelley
(An example of 3,552 form submissions with similar content)

484 Ms Elizabeth Hobson
(An example of 46 form submissions with similar content)

485 Mr Justin Bruhn
(An example of 17 form submissions with similar content)

486 *Confidential*

487 Desert Channels Foundation

488 Australian Environment Foundation Ltd

489 ClimActs
(An example of 2 form submissions with similar content)

490 Arab Council Australia

491 Ms Sally Trewenack

492 Australian Taxpayers' Alliance

493 Senator Matthew Canavan

494 The Norwood Resource Inc.

495 Fundraising Institute Australia

496 Australian Forest Products Association

497 Minerals Council of Australia

498 Oxfam Australia

499 Gawler Environment and Heritage Association
499.1 Supplementary to Submission 499

500 Australian Council for International Development

501 Ms Helen Lawrence

502 Mr Peter Campbell

503 Mr Jeremiah Amor

504 Trinity Inlet Catchment Management Association Inc.

505 Ms Marie Macdonald

506 Ms Jo-Anne Seater

507 Animalia Wildlife Shelter

508 Foundation for Australia's Most Endangered Species Ltd
509 Mr Mike Hill
510 Kimberley Toad Busters
511 Robyn Hargrave
512 Ms Katherine Hobman
513 Ms Lani Murray
514 Mr Russell Julian
515 Karma Cats Ltd
516 Ms Joanna Pinkiewicz
517 Mr John Kaye
518 Ms Peggy Fisher
519 Clean Up Australia Ltd
520 Ms Linda Harvey
521 WetlandCare Australia
522 Understorey Network
523 Mr Matthew Abud
524 Mr Chris Gurney
525 Futureworld—National Centre for Appropriate Technology Inc.
526 Wetlands and Wildlife
527 Friends of Woorabinda Bushland Reserves
528 Ms Samantha Morris
529 Ginninderra Catchment Group
530 Ms Wendy Ivey
531 Macedon Ranges Sustainability Group
532 Friends of the Elms Inc.
533 Darebin Climate Action Now
534 Possum Centre Busselton
535 Ms Jaiia Earthschild
536 Yarra Riverkeeper Association
537 Mr Peter Morris
538 The Jewish National Fund Environmental Association of Australia Inc.
539 South Gippsland Conservation Society
540 Mr Peter Weatherly
541 Mr Donald Skerman

542 Animalia Wildlife Shelter
543 Project Numbat Inc.
544 Friends of North Ocean Reef—Iluka Foreshore
545 Canberra Ornithologists Group
546 Ms Daisy Barham
547 Ms Elizabeth Cole
548 Swanbourne Coastal Alliance Inc.
549 Mr Greg Banks
550 Mr Glen Klatovsky
551 Darling Range Wildlife Shelter
552 The Colo Committee
553 Mr James Tremain
554 Urban Bushland Council WA Inc.
555 Mr Stephen Higgs
556 The Environment Centre NT
557 Markets For Change
558 Anglican Earthcare Gippsland Inc.
559 The Australian Dingo Foundation
560 Parramatta Climate Action Network
561 Western Highway Alternative Mindsets
562 Albury Conservation Company
563 Earth Learning Inc.
564 Native ARC Inc.
565 Mr Gavin Cerini
566 Planet Ark Environmental Foundation
567 Waterbird Conservation Group Inc.
568 EthicalJobs.com.au
569 Mr Shane Drew
570 Landcare SJ Inc.
571 Mr Bruce Diekman
572 Friends of Montmorency Bushlands
573 Phil Little Sustainable Design Foundation
574 Ms Lisa Herring
575 Cancer Council Queensland

576 AID/WATCH

577 Energy Resource Information Centre

578 Mr Peter Martin

579 Mr Barry Condon

580 Australian Petroleum Production and Exploration Association

581 Mr Garry Reed

582 Ms Barbara Bolster
(An example of 38 form submissions with similar content)

583 Ms Madeleine Holme
(An example of 12 form submissions with similar content)

584 Ms Louise Harrison
(An example of 14 form submissions with similar content)

585 Ms Aja Hani Whelan-Schrapel
(An example of 2 form submissions with similar content)

586 Mr Mark Hetherington

587 Mr Andrew Carr

588 Mr Ben Schokman

589 Ms Miriam English

590 Mr Mark Ludbrooke

591 Mr Matthew Dinneen

592 Mr Jamie Hanson

593 Ms Cassandra Berry

594 Mr David Gilbert

595 Ms Liz Rhodes

596 Mr Graeme Murrell

597 Ms Jane Moulin

598 Mr Kenneth Pope

599 Mr Tim McEwan

600 Mr Jeremy Davis

601 Ms Carol Bartlett

602 Ms Zohl de Ishtar

603 Ms Christine Burke

604 Ms Katherine Marchment

605 Ms Kali Reid

606 Ms Kelly Shay

607 Mr Andrew Thornley
608 Ms Mary Larkin
609 Ms Carolyn England
610 Ms Dian Bedggood
611 Ms Ina Mullin
612 Ms Fiona Canny
613 Mr Robert Chambers
614 Mr Simon Sonter
615 Rev Chris Budden
616 Ms Robyn Martinez
617 Mr Mark Kleinschmidt
618 Ms Ann Reeves
619 Ms Jenny D'Arcy
620 Mr David Ramsey
621 Ms Natalie Keene
622 Ms Samantha Buxton
623 Ms Ariane Blanch
624 Ms Claudette Rechtorik
625 Ms Mary Tinney
626 Mr Edward Valk
627 Mr Peter Krinks and Ms Vera Yee
628 Ms Sandra Cohen
629 Mr Paul Blake
630 Ms Olivia Whitty
631 Mr Neville Fathers
632 Ms Doris Tate
633 Ms Karuna Miller
634 Mr Noel Matthews
635 Mr Matthew Grimbly
636 Ms Karen Large
637 Ms Tiffany Mason
638 Ms Deborah Ling
639 Mr Justin Lund
640 Mr Michael Garcia

641 Ms Caroline Sato

642 Mr Peter Reay

643 Ms Josie Evans

644 Ms Anne Hodgson

645 Ms Hope Nguyen

646 Mr Robert Wesley-Smith

647 Ms Sandi McDonald

648 Ms Marita Hope

649 Ms Carmel Clark

650 Mr Patrick Smith

651 Ms Meredith Stanton

652 Ms Abby Gee

653 Mr Benjamin Rodgers

654 Mr Tim Foley

655 Mr Damian Smedley

656 Ms Jasmine Shirrefs

657 Ms Gabrielle Nielsen

658 Ms Annette Schneider

659 Mr Tony Cox

660 808 contributions received via a web form

661 Nature Conservation Society of South Australia
661.1 Supplementary to Submission 661

662 Law Council of Australia

663 Mr Yme Tulleners

664 Farm Tree and Landcare Association
664.1 Supplementary to Submission 664

665 Mr Peter Gleeson
(An example of 5 form submissions with similar content)

666 Dr Kylie McIntosh
(An example of 28 form submissions with similar content)

667 Mr William Quin
(An example of 57 form submissions with similar content)

668 Ms Janine Walters
(An example of 2 form submissions with similar content)

669 Ms Nina Hardie

670 Scientific Expedition Group Inc.

671 Mr Andrew Nikolic MP

672 Ms Beverley McIntyre

673 Ms Margaret Shaw

674 National Farmers' Federation

675 Mr Ian Sauer

676 Mrs Kylie Smith
676.1 Supplementary to Submission 676

677 The Hon. Robert Borsak MLC

678 Mr Malcolm King

679 CounterAct

680 Forest Stewardship Council Australia

681 MyEnvironment

682 Reef Catchments Ltd

683 NSW Police Force

684 Mr Peter Matthews

685 Victoria Police

B

Appendix B: List of exhibits

1 John Edwards, *Coldstream grant project – In kind contribution, time and expense details*
Relates to Submission 8, Clarence Environment Centre

2 Hawkesbury Environment Network Inc., *Constitution as amended on 27 November 2014*
Relates to Submission 210, Hawkesbury Environment Network Inc.

3 Thomas Faunce (ed), 'Government control over health-related not-for-profit organisations: Agency for International Development v Alliance for Open Society International Inc. 570 US __ (2013)', *Journal of Law and Medicine*, (2013) 21:278–293
Relates to Submission 306, Civil Liberties Australia Inc.

4 Ports Australia, *Dredging and Australian Ports – Temperate Ports, May 2015*
Relates to Submission 358, Ports Australia

5 Ports Australia, *Dredging and Australian Ports – Subtropical and Tropical Ports, April 2014*
Relates to Submission 358, Ports Australia

6 Ports Australia, *Information Briefing: Dredging in the Great Barrier Reef Region, February 2015*
Relates to Submission 358, Ports Australia

7 Ports Australia, *Information Briefing: Importance of Ports in the Great Barrier Reef Region, February 2015*
Relates to Submission 358, Ports Australia

8 Mr Alan Duggan, article from *The Australian*, 19 March 2011, *Taken for granted: how tax dollars are helping to fund green agendas*
Relates to Submission ,

9 The Australia Institute, proposed submission dated June 2015

10 Articles and media statements
Relates to Submission 671, Mr Andrew Nikolic MP

11 Judith Sloan, 'Stop giving the eco terrorists free range to bully', *The Australian*, 1 April 2014
Relates to Submission 677, The Hon. Robert Borsak MLC

12 Australian Charities and Not-for-profits Commission, *Charity Compliance Report, December 2012 to December 2014 and beyond*
Relates to Submission 189.1, Australian Charities and Not-for-profits Commission

C

Appendix C: List of public hearings

Tuesday, 16 June 2015 – Canberra

Department of the Environment

Ms Lara Musgrave, Assistant Secretary, Engagement and Evaluation

Mr Simon Writer, General Counsel

Thursday, 18 June 2015 – Canberra

Australian Charities and Not-for-profits Commission

Ms Susan Pascoe, Commissioner

Mr Murray Baird, Assistant Commissioner

Ms Susan Quinn, Senior Policy and Education Officer

Tuesday, 14 July 2015 – Brisbane

Queensland Resources Council

Mr Michael Roche, Chief Executive

Ms Angela Harper, Director, Communications–Operations

Gecko—Gold Coast and Hinterland Environment Council Association

Mrs Rose Adams, Secretary

Mrs Lois Levy, Campaign Coordinator

Queensland Trust for Nature

Ms Tanya Pritchard, Conservation Officer

Wildlife Preservation Society of Queensland and the Wildlife Land Fund Limited

Mr Des Boyland, Secretary

Australian Marine Conservation Society

Mr Darren Kindleysides, Director

Ms Felicity Wishart, Campaign Director

Great Barrier Reef Foundation

Mr Phillip Strachan, Board Member

Ms Claire Hanratty, Managing Director

Queensland Conservation Council

Ms Vivien Griffin, Acting Chair

Ms Wendy Tubman, Executive Member

Basin Sustainability Alliance

Mr Neil Cameron, Committee Member

Mr Peter Shannon, Committee Member

Ecological Society of Australia

Associate Professor Nigel Andrew, President

Mrs Gail Spina, Executive Officer

Property Rights Australia

Mrs Joanne Rea, Treasurer

The Hon. Ron Boswell

Australian Petroleum Production and Exploration Association

Mr Paul Fennelly, Chief Operating Officer, Eastern Australia

Mr Matthew Paull, Policy Director, Queensland

Individuals

Senator Matthew Canavan

Tuesday, 21 July 2015 – Hobart

Bob Brown Foundation

Dr Bob Brown, Chair

Environment Tasmania

Mr Andrew Perry, Forests Campaign Coordinator

Tasmanian Land Conservancy

Mr Stuart Barry, Vice President

Dr Sally Bryant, Acting Chief Executive Officer

Tasmanian National Parks Association

Mr Paul Smith, Member

Landcare Tasmania

Mr Matthew Pitt, President

Mr Mark Ritchie, Executive Officer

Tasmanian Conservation Trust

Mr Peter McGlone, Director

Tarkine National Coalition

Mr Scott Jordan, Campaign Coordinator

Markets for Change

Ms Peg Putt, Chief Executive Officer

Individuals

Mr Ian Sauer

Tuesday, 1 September 2015 – Adelaide

Conservation Council of South Australia

Ms Nadia McLaren, President

Mr Craig Wilkins, Chief Executive

Public Law and Policy Research Unit, University of Adelaide

Dr Peter Burdon, Senior Lecturer

Dr Anna Olijnyk, Lecturer

Mrs Sylvia Villios, Lecturer

Nature Conservation Society of South Australia

Mr Michael Stead, Vice President

Dr Jeffery Foulkes, Conservation Programs Manager

The Norwood Resource

Mr Bruce Holland, Secretary

Mr John Hughes, Public Officer

Sporting Shooters' Association of Australia

Mr Matthew Godson, Special Projects Officer—Pest and Wildlife Management

Sustainable Population Australia

The Hon. Sandra Kanck, President

Dr John Coulter, Committee Member

Nature Foundation SA

Mr Ian Atkinson, Chief Executive Officer

Mr Bob Lott, President

Mr David Moyle, Vice President

Worlds End Conservation

Mr Peter Knapp, Director

Thursday, 3 September 2015 – Perth

Conservation Council of Western Australia

Mr Piers Verstegen, Director

The Orangutan Project

Mr Leif Cocks, President

Wildlife Asia, the Asian Rhino Project and the Silvery Gibbon Project

Ms Clare Campbell, Director, Wildlife Asia

Painted Dog Conservation

Ms Carol Shannon, Treasurer

Doctors for the Environment Australia

Professor Kingsley Faulkner, Chair of Management Committee (National)

Dr Hakan Yaman, Honorary Treasurer

Friday, 18 September 2015 – Canberra

Law Council of Australia

Adjunct Professor Greg McIntyre, Chair, Australian Environment and Planning Law Group

Mr Nicholas Parmeter, Executive Policy Lawyer

Minerals Council of Australia

Mr Brendan Pearson, Chief Executive

Mr Matthew Steen, Assistant Director, Economics and Industry Policy

Mr Brian Cole, Executive General Manager, Project Delivery, Whitehaven Coal

National Parks Association of the Australian Capital Territory

Ms Christine Goonrey, Vice President

Mr Rod Griffiths, Convenor, Environment Sub-Committee and Immediate Past President

National Parks Australia Council

Mr Rod Griffiths, Vice President

Ms Christine Goonrey, Immediate Past President

Australian Network for Plant Conservation

Ms Joanne Lynch, Business Manager

Mr Robert Makinson, Management Committee Member, Past President

Conservation Council ACT Region

Mr Larry O'Loughlin, Assistant Director

WWF-Australia

Mr Dermot O'Gorman, Chief Executive Officer

Mr Robert Purves, President

Council of Heads of Australian Botanic Gardens

Dr Lucy Sutherland, National Coordinator, Australian Seed Bank Partnership

Dr Judy West, Committee Member

Community Council for Australia

Mr David Crosbie, Chief Executive Officer

Individuals

Dr Greg Ogle

Monday, 21 September 2015 – Melbourne

Environment Victoria

Mr Mark Wakeham, Chief Executive Officer

Gene Ethics

Mr Robert Phelps, Executive Director

Ms Jessica Harrison, Gene Ethics Cropwatch Coordinator

Friends of the Earth Australia

Mr Cam Walker, National Liaison Officer

Ms Samantha Castro, Operations Coordinator

Mr Julien Vincent, Lead Campaigner, Market Forces

Ms Nicola Paris, Coordinator, CounterAct

BirdLife Australia

Mr Paul Sullivan, Chief Executive Officer

Australian Conservation Foundation

Ms Kelly O'Shanassy, Chief Executive Officer

Ms Elizabeth McKinnon, General Counsel

Farm Tree and Landcare Association

Ms Karen Alexander, Vice President

The Economics Team

Professor Bill Malcolm, Member

Dr Jim Crosthwaite, Member

Australian Communities Foundation

Mr Tom Bostock, Chairman

Dr Alan Moran, Director

Individuals

Mr Mark Poynter

Tuesday, 22 September 2015 – Melbourne

Australian Youth Climate Coalition

Miss Kirsty Albion, National Director

Mr Daniel Spencer, National Campaigner

MyEnvironment

Mr Steve Meacher, Vice President

Not-for-profit Project, University of Melbourne Law School

Professor Ann O'Connell, by teleconference

Dr Joyce Chia, former Research Fellow

Australian Psychological Society

Ms Heather Gridley, Manager of Public Interest

Dr Susie Burk, Senior Psychologist, Public Interest, Environment and Disaster Response

Energy Resource Information Centre

Mr Stephen Wright, Director

Greening Australia

Mr Jonathan Duddles, Director of Strategic Engagement

Conservation Volunteers Australia

Mr Ian Walker, Director, Conservation

Philanthropy Australia

Mr Krystian Seibert, Policy and Research Manager

Beyond Zero Emissions

Dr Stephen Bygrave, Chief Executive Officer

Individuals

Mr Philip Clarke

Wednesday, 30 September 2015 – Bowen

Reef Catchments Limited

Mr Robert Cocco, Chief Executive Officer

Resource Industry Network

Mr David Hartigan, Deputy Chairman

Mackay Conservation Group

Dr Michael Williams, President

Ms Ellen Roberts, Coordinator

Abbot Point Expansion Supporters Group

Mrs Tarah Medcalf

Mrs Kylie Smith

Whitsundays Marketing and Development

Ms Elouise Lamb, Economic Development Specialist

Bowen Chamber of Commerce; Bowen-Collinsville Enterprise; Bowen Tourism and Business

Mr Bruce Hedditch, Chairman, Bowen Chamber of Commerce (formerly Bowen Business Chamber)

Mr Stephen Darwen, Chairman, Bowen-Collinsville Enterprise

Mr Paul McLaughlin, Chairman, Bowen Tourism and Business

Individuals

Mr John Barnes

Tuesday, 17 November 2015 – Sydney

Greenpeace Australia Pacific

Mr David Ritter, Chief Executive Officer

Dr Nikola Casule, Climate and Energy Campaigner

The Wilderness Society

Mr Matthew Brennan, National Director of Operations

Mr Lyndon Schneiders, National Campaigns Director

Nature Conservation Council of NSW

Ms Kate Smolski, Chief Executive Officer

NSW Minerals Council

Mr Stephen Galilee, Chief Executive Officer

Timber NSW

Ms Maree McCaskill, General Manager

Mr Stuart Coppock, Legal Adviser—Tax

Aid/WATCH

Mr Gareth Bryant, Committee of Management Representative

Australian Network of Environmental Defenders Offices (EDOs of Australia)

Mr Jeff Smith, Executive Director (EDO NSW)

Ms Rachel Walmsley, Policy and Law Reform Director (EDO NSW)

Ms Sue Higginson, Principal Solicitor (EDO NSW)

Mr Nariman Sahukar, Senior Policy and Law Reform Solicitor (EDO NSW)

Individuals

Associate Professor James Goodman

Thursday, 26 November 2015 – Canberra

Australian Charities and Not-for-Profits Commission

Mr Murray Baird, Assistant Commissioner, General Counsel

Department of the Environment

Mr Sean Sullivan, First Assistant Secretary, Policy Analysis and Implementation Division

Ms Lara Musgrave, Assistant Secretary, Parks Island and Biodiversity Science

Mr Simon Writer, General Counsel