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SUBMISSION Re: **Parliamentary Inquiry into the Register of Environmental Organisations**

By John Chadderton

Thank you for the opportunity to provide a response to the Parliamentary Inquiry into the Register of Environmental Organisations. I have been involved with various environmental organisations in a voluntary capacity since the early 1990s and worked for five years from 2010-2015 in an administrative capacity with an environmental non-government organisation (eNGO) which was a registered charity with DGR status. It is reassuring to see the government pursuing issues in the administration of government instruments to ensure efficient and effective use of Australian taxation.

1. Introduction

Whilst the focus of this submission will be in relation to Recommendation 5, I would like to make two initial observations about this particular Inquiry.

- a. I acknowledge the responsibility of the Minister, the Hon. Greg Hunt MP, to initiate this Inquiry in the fulfilment of his obligations to ensure proper administration of those areas for which he is responsible. However, the initiation of inquiries into particular areas should take account of the broader systemic embedding of those areas such that the specific inquiry does not unduly provoke or generate changes which may be either inappropriate or conflict with principles and aims across that system. In this regard, I support the Committee's view expressed in the Report as, "2.48 Nevertheless, the Committee encourages a broader and more thorough consideration of the entire DGR system by the Australian Government, in due course." In addition, it would be appropriate to include consideration of tax arrangements applied to industry activities e.g. lobbying.
- b. The membership of the Committee shows 8 LNP members (although the Chair, John Cobb's membership is unclear from the list provided in the report) and 5 ALP members. I don't know how the Committee membership was established, but it strikes me as curious that the Greens, being the Party with an obvious key interest in this inquiry, were not represented? Nor are any other Parties or Independent members represented. Can the Committee elucidate how the Committee was established and why it has no members other than those from the LNP and ALP?

2. Recommendation 5

The role of environmental organisations (eNGO) are critical in a world subject to the scientifically established threat of catastrophic climate change. Indeed, Australia has been identified as a geographical location which is currently, and will continue to be, affected in particularly extreme ways as climate change progresses. The interdependence of the natural world, which includes humanity, must be acknowledged in any attempt to manage 'economies' effectively to ensure their sustainability across generations.

A range of eNGOs have been, and will continue to be, established to address a variety environmental outcomes e.g. policy, education, remediation etc., yet with a common principal purpose (2:17):

"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;"

This reflects the desire of communities to achieve those purposes and consequently the eNGOs receive financial or other support to effectively pursue those purposes. In giving to eNGOs, communities take account of the perceived or claimed effectiveness that their giving will have in achieving the purposes. The community recognise the inherent ‘public benefit’ of supporting the work of eNGOs as it is the very habitat of those communities which the eNGOs are aiming to protect and enhance. The eNGOs establish their specific expertise and focus and ‘sell’ their approach to the community who in turn will support them or not. Indeed the general community may well join them in some capacity as members or volunteers in order to support a specific approach of an eNGO.

It is essential that any activities undertaken by eNGOs are effective in achieving their purpose. Effectiveness can only be measured in relation to the outcomes achieved across a whole system. For example, to use an analogy, there is little point in applying the car brake to avoid an accident if at the same time you keep your foot on the accelerator. This point was made through various submissions to the Inquiry e.g. “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.” and “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.”

It is this interdependency within the environmental system that raises questions about the effectiveness of particular activities in achieving stated purposes. The eNGO sector persists as it continues to reflect the community standards and goals, which in turn are responsive to the evidence derived from scientific research. And so it is that, in a world threatened by catastrophic climate change, the community may choose to place their resources behind eNGOs which most effectively address the issues identified. So, for example, remediation work, whilst it protects or enhances a particular aspect of the environment and plays a part in moderating the rate of climate change impacts, it is clear there are other areas e.g. fossil fuels, meat farming and deforestation, which, if not addressed, make any efforts on remediation work almost futile in achieving the overall purpose of environmental sustainability. If, for example, sea levels continue to warm and rise at an increasing rate due to increasing CO₂ in the atmosphere, what is the value of planting to stabilise coastal sand banks?

So I have deep concerns that in Recommendation 5 of the Inquiry Report, the Committee have chosen to focus the requirement for expenditure on environmental remediation work on ‘each environmental deductible gift recipient’s annual expenditure’. For individual eNGOs to incorporate a specific activity e.g. environmental remediation (which remains substantially undefined in the Report as acknowledged in 4.82, 4.83 etc.), in which they currently have no expertise, would, in order to be effective, necessitate the establishment of that expertise, structures and programs within their organisation or 4.85 “...provide funding to other environmental organisations...”. For many individual eNGOs this would be a huge administrative burden and, depending on the overall size of the organisation budget, may simply be insufficient to create any meaningful expertise, structure and programs to undertake any effective work. Such a requirement on expenditure could effectively reduce an eNGOs expenditure on activities within their expertise by 25% or more and would not necessarily reflect community choices and priorities. By making such an expenditure requirement the Committee are effectively saying to the community ‘If you want to give to the environment sector you MUST, alongside any other activity, give to environmental remediation work.’ I strongly object to the Committee making recommendations to limit the freedom of the community to choose the activity they wish to support or obliging donators to donate to specific activities. In effect the Committee’s proposal looks like an attempt to redirect funding away from non-environmental remediation work. I find no basis to support the view asserted in 4.87 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.” as it would directly reduce the resources available to those activities.

As implied in other submissions to the Inquiry, such a move not only reflects a deep misunderstanding about the nature of the environment and what constitutes effective action to address the issues identified, but seeks to divert attention

and resources away from those issues which have been identified as the most significant contributors to environmental degradation and the threats of climate change.

Whilst I strongly object to the Committee making any requirements at all in relation to the activities of eNGOs, outside the tests for meeting their principal purposes, another approach could be to assess the percentage of the environmental DGR sector expenditure on environmental remediation work. This raises the question:

What percentage of the environmental DGR sector expenditure is currently, and historically, directed to environmental remediation work?

It could be that the sector already expends 25%, or more, of their annual expenditure on environmental remediation. If the government believed the current sector annual expenditure on environmental remediation was below that necessary to achieve a particular environmental outcome, it could then encourage the expansion of the eNGO sector to address it. This would have the benefit of supporting the whole of the eNGO sector as well as the expansion and development of eNGOs which had the expertise, structure and programs to achieve the particular outcomes e.g. remediation, rather than placing those demands on existing eNGOs which have none of that focus or capacity and would consequently have reduced capacity to undertake activities within their area of expertise. However, as stated, I strongly object to the government seeking to regulate non-government activities in the manner proposed as it threatens freedoms inherent in our democracy.

Furthermore, it is concerning that the Committee, having heard the range of evidence for the interdependence of the different aspects of the environment and the commensurate interdependence of the different aspects of eNGO activities, has chosen to focus its proposed requirement in Recommendation 5 on developing environmental remediation as opposed to any of the other activities. On what grounds has this focus and priority been arrived at? Why, for example, has the Committee not determined that 25% or more of an eNGOs annual expenditure be made on environmental policy reform? I believe the Committee's focus has primarily arisen from a fundamental misunderstanding of what constitutes effective environmental activity. This focus may also have arisen from undue weight being given to the influence of the resource industry submissions e.g. 4.70 Queensland Resources Council & 4.71 Energy Resource Information Centre. And this focus arises in order to reduce the perceived impacts on industry of the eNGO sector's focus by diverting support into activities which are essentially 'downstream' from the causes of environmental degradation, rather than 'upstream' where the source of environmental degradation may be found. This view finds substantial support in The Australia Institute's report, Powers of Deduction (<http://www.tai.org.au/sites/default/files/P166%20Powers%20of%20deduction.pdf>). If the Committee see fit to regulate the activities of eNGOs DGRs, it should also make recommendations recommending a review and regulation of activities of other industries receiving taxation benefits. The conclusion of the Institute's report clearly reflects my views:

"The DGR status of environmental organisations has a very small impact on tax revenue, but is important to the funding of local, state and national environmental organisations that deliver environmental benefits. They ensure real scrutiny of government decisions and industry practice around important environmental assets. Importantly, these organisations provide a counterpoint to the hundreds of millions, perhaps billions, of dollars spent on lobbying by the mining industry in recent years. These lobbying expenses are also tax deductible and reduce tax revenue by far greater amounts. This lobbying is effective. It has seen the disappearance of inquiries that BHP and Rio Tinto don't like, along with the end of the mining tax and the continuation of fuel subsidies, all at a cost of billions to the Australian taxpayer."

There is no doubt that much 'on the ground environmental remediation work' is undertaken to address the consequences of the poorly managed industrial-economic system our society maintains. Again, it would be most unfortunate, if the Committee arrive at a decision which seeks, in effect, to outsource to the eNGO/philanthropic sector the environmental remediation work generated through the activities of the resources or other sectors. Such a decision would shift responsibility for environmental remediation to the philanthropic sector rather than accepting that the

primary responsibility for remediation activities belong within the sector which generates the need. It is clear, for example, that existing industry accounting practices do not adequately account for environmental ‘externalities’ e.g. the environmental costs generated in the process of creating products. For a deeper understanding of this, please refer to *Corporation 2020* by Pavan Sukhdev (<http://www.corporation2020.org/>). I have no doubt that government are increasingly recognising the need for industry to properly account for their environmental impacts and are including requirements for environmental impact assessments and adequate environmental remediation for projects undertaken. This is appropriate but the government could do far more to ensure industry account for and address the environmental impacts of their activities. It would be completely unacceptable for the government to shift these responsibilities to the eNGO philanthropic sector.

The generosity of the eNGO/philanthropic sectors in undertaking any remediation work should not be taken for granted, depended upon or manipulated by the government to address environmental problems. This view was well stated in Submission 476 - Supplementary Submission from the Australian Environmental Grantmakers Network,

“The current framework is based on a recognition that philanthropy stems from generosity, not obligation. Just as government can't compel generosity, nor should it attempt to direct too strongly the flow of philanthropic funds, as this can discourage generosity. Grants made to environmental organisations are funds expended for the public good, and broader benefits delivered by these funds can save the government money in the longer term.”

If the government are to be serious about addressing environmental concerns, as evidenced through the scientific community and reflected in the concerns and priorities of the general community, it would prioritise its focus and support for the most effective actions necessary to address those concerns. The community should be free to drive the priorities based on sound scientific evidence and those priorities should be reflected in the government and the NGO/DGR sector generally as well as the eNGO sector specifically, without intervening regulation by the government. There are numerous public and environmental benefits obtained by supporting the existing eNGO DGR arrangements:

“These groups ensure better standards of environmental protection, monitoring and compensation for damage often by the mining industry. For example:

- Local environment groups with DGR status in Lithgow, NSW, exposed damage caused by Centennial Coal leading to a \$1.45 million fine to the company.
- State environment groups were important in showing government and company shortcomings in the judicial inquiry into Victoria’s Hazelwood mine fire. The fire imposed costs of more than \$100 million on the Victorian taxpayer, the local community and the owner, GDF Suez.
- National environment groups have played important roles in limiting uranium mining in Kakadu, which is opposed by 70 per cent of Australians.”

(from Powers of Deduction p3 by The Australia Institute

<http://www.tai.org.au/sites/default/files/P166%20Powers%20of%20deduction.pdf>)

I am deeply concerned that by pursuing regulation of activities of eNGOs, the Committee is establishing a principle which could be applied to the activities of any organisation that obtains taxation relief or support. So, for example, would it be acceptable for a government to regulate the activities of resource industry lobbying and specify they expend 25% or more of their funds lobbying for emissions trading schemes? Would it be acceptable, for example, to require all health sector NGOs to expend 25% or more of their tax deductible annual expenditure on surgical work? The fact that such requirements are not made of other industries or NGO DGRs also raises concerns that the eNGO sector is being targeted in some way for purposes that are not limited to efficient and effective administration or public interest.

3. Conclusion

Whilst the terms of reference for the Inquiry “required a particular focus on on-ground work and practical action to improve the environment.”, it is clear that the way this has been conceptualised by the Committee and others continues

to perpetuate understandings of the nature of the environment which are not supported by scientific evidence or reflected in the way the eNGO sector establishes their priorities and goes about its activities or gives adequate acknowledgement of the role of industry. If the Committee and government continues to treat aspects of the environment and their relationship to the activities of humanity, including industrial and economic activities, as separate independent entities, the conclusions drawn and any actions based on them will further compound the environmental issues we face. Given that Australia is a signatory to the Paris Accord on Climate Change it would be prudent for the government to ensure that, when it comes to matters of practical action for environmental enhancement and protection under consideration in this Inquiry, its priorities and support for activities reflect those of the scientific and international communities to achieve the established targets.

I strongly object to, and do not support, Recommendation 5 as it reflects the aforementioned misconceptions; threatens democratic freedoms; imposes burdensome bureaucratic requirements; reduces funding to non-remediation activities of eNGOs by up to 50%; fails to reflect or establish appropriate priorities for addressing the most significant and pressing environmental concerns; fails to reflect or establish principles which are or could be applied to the DGRs generally; gives undue standing and weight to resource industry views.

In relation to Recommendation 5 and other matters raised in this Inquiry, I broadly support the views expressed in the Labor Members Dissenting Report.

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