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21 May 2015

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

Dear Sir/Madam,

Inquiry into the Register of Environmental Organisations

Introduction

Philanthropy Australia is the national peak body for philanthropy and is a not-for-profit (NFP) membership organisation comprising around 800 Members and Associates. These include trusts and foundations, businesses, families and individuals who want to make a difference through their own philanthropy and to encourage others with their giving. Our vision is for 'A More Giving Australia' and our mission is to 'Lead an innovative, growing, influential and high performing philanthropic sector in Australia.'

Philanthropy Australia thanks the House of Representatives Standing Committee on the Environment for the opportunity to make a submission to its Inquiry into the Register of Environmental Organisations ('the Register').

Philanthropy Australia supports and endorses the submission prepared by the Australian Environmental Grantmakers Network, and also offers the following additional comments.

Many of our Members are private or public ancillary funds, and therefore can only distribute funds to deductible gift recipients (DGR). The practical effect of this is that the only environmental charities which they can support are those on the Register, apart from a very small number that are a DGR by way of a specific listing in the tax laws.

Therefore, Philanthropy Australia is keen to ensure that the Register and associated regulatory framework is structured in a manner which encourages rather than discourages philanthropy. This principle is what frames the comments that follow.

The Diversity of Practical Approaches to Protecting and Enhancing our Natural Environment.

There are many different practical approaches which philanthropy and the charities it supports can adopt in order to protect and enhance our natural environment.

These practical approaches can include undertaking 'on-ground environmental works', the provision of information or education, carrying out research, and undertaking advocacy.

It appears to be implicit in the terms of reference for the Inquiry that 'on-ground environmental works' may be considered to be more important than the other approaches listed above.

'On-ground environmental works' are certainly important. However the provision of information or education, carrying out research, and undertaking advocacy are equally important and depending on the environmental problem seeking to be addressed, they may be a more practical and effective approach to adopt than focusing on 'on-ground environmental works'.

This can be illustrated with an example. Where a particular environmental asset, such as a river, is threatened by certain forms of human activity, for example pollutants emitted from a factory, little is likely to be achieved by way of 'on-ground environmental works'. This is because cleansing the river of pollutants and assisting wildlife to recover from coming into contact with the pollutants will not stop the pollutants entering the river from the factory.

Instead, it may be necessary to provide information or education about the impact of the pollutants emitted from the factory and undertake further research into this impact. This can be used to engage with stakeholders and decision makers such as the factory owners, regulators, policy makers and political representatives in order to reduce the level of pollutants being emitted in the first place – this engagement is what is commonly referred to as advocacy.

In this example, it is likely that it would be more efficient and effective to not direct resources towards 'on-ground environmental works', which at most will only address some of the *symptoms* of the problem, but rather direct resources towards activities that will address the *cause* of the problem.

The example underlines the important role advocacy plays in delivering tangible outcomes which protect and enhance our natural environment.

The Broader Significance of Advocacy and 'Systems Change Philanthropy'

The broader importance of advocacy is evident in two further ways. Firstly, in 2010 the High Court of Australia decision in *Aid/Watch v Commissioner of Taxation* ended years of uncertainty when it found that activities which aim to change government laws and policies in order to further a charitable purpose are in themselves charitable.

The basis for the Court's decision was a recognition that our constitutional system of representative government relies upon freedom of communication between government and electors, and therefore requires 'agitation' for

legislative and political change. The effect of this decision was subsequently codified in the *Charities Act 2013*, a piece of legislation that Philanthropy Australia strongly supports.

Although the High Court's decision in *Aid/Watch v Commissioner of Taxation* related to charitable purposes, and not DGR status, the principles behind the decision are applicable to decisions about which activities charities, such as those on the Register, are able to undertake in order to maintain their position on the Register, and therefore the ability to be endorsed as a DGR.

Linked with the importance of advocacy as a charitable purpose, is the growth of 'systems change philanthropy' around the world. 'Systems change philanthropy' involves addressing the causes and not just the symptoms of social and environmental challenges. This can involve funding research, supporting evidence building and facilitating advocacy and lobbying of policy makers and political representatives. The example above of the factory emitting pollutants into a river provides an example of where systems change philanthropy could be of particular benefit.

The recent 2015 BNP Paribas Individual Philanthropy Index¹ found that 'systems-change philanthropy' was seen as the fourth most promising trend by philanthropists worldwide. But in order for Australia to benefit from this trend, philanthropy and the charities it supports need to be able to adopt different practical approaches to address social and environmental challenges. This question of choice and flexibility is addressed further in the following section.

New Restrictions Could Impose 'Red Tape' on Philanthropy

Philanthropic funds, like government funds, are scarce. Philanthropy Australia believes that it is important to ensure that philanthropy and the charities it supports have at their disposal a wide variety of practical approaches which they can adopt in order to protect and enhance our natural environment.

These should include undertaking 'on-ground environmental works', the provision of information or education, carrying out research, and undertaking advocacy.

If there were a narrowing of the definition of 'environmental organisation' under the *Income Tax Assessment Act 1997*, including under Subdivision 30-E, or the introduction of new restrictions which inhibit the ability of environmental charities on the Register to undertake advocacy, this would increase the 'red tape' imposed on philanthropy.

Narrowing the definition of 'environmental organisation' would introduce a new barrier to giving by reducing the number of environmental charities which Philanthropy Australia's Members can support, particularly Members that are private or public ancillary funds.

If new restrictions were introduced which inhibit the ability of environmental organisations on the Register to undertake advocacy, they would introduce a new barrier to how giving can protect and enhance our natural environment. This would take away flexibility and choice from philanthropy and the charities it supports, and instead use legislation to specify in unreasonable and

¹ *The Top Five Most Promising Trends in Philanthropy*, Forbes, 3 February 2015. Available at: <http://www.forbes.com/sites/forbesinsights/2015/03/02/the-top-five-most-promising-trends-in-philanthropy/>

prescriptive detail what philanthropy and the charities it supports can and can't do.

Such proposals would discourage philanthropy, and therefore Philanthropy Australia would not support any narrowing of the definition of 'environmental organisation' under the *Income Tax Assessment Act 1997*, including under Subdivision 30-E. Nor would Philanthropy Australia support any new restrictions which inhibit the ability of charities on the Register to undertake advocacy.

Conclusion

Once again, Philanthropy Australia thanks the House of Representatives Standing Committee on the Environment for the opportunity to make a submission to its Inquiry.

Philanthropy Australia hopes its comments are of assistance, and if the Committee wishes to discuss the matters raised in this submission further, please contact Krystian Seibert, Policy & Research Manager, on (03) 9662 9299.

Yours Sincerely,



Chris Wootton
Acting CEO