



NATIONAL PARKS ASSOCIATION OF THE ACT INC.

Committee Secretary
House of Representatives Standing Committee on the Environment
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Canberra ACT 2600

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Dear Committee Secretary

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

The National Parks Association of the ACT (NPA ACT) is a community-based conservation organisation with more than fifty years of working to protect the natural environment through an active outings and workparty program; participation in Parkcare activities; an extensive publication program; public meetings and conferences and engagement with government policies and programs.

The NPA ACT is listed by name under the environment category in table 30-55(2) in subdivision B of the *Income Tax Assessment Act 1997* as being eligible to receive tax deductible donations.

Summary of key points in submission

Overall the NPA ACT believes that current definitions and administrative arrangements:

- are inadequate for the approval new organisations seeking an 'environmental organisation' status as the Minister for the Environment is required to approve the application. This has the potential to politicize the decision-making process. The preferred option would be for an independent body to responsible for approvals
- provide tax deductibility status to appropriate environmental activities both within Australia and internationally
- should not be restricted to only on-ground environmental activities
- contains effective mechanisms for the reporting of environmental activities by environmental organisations but that inefficiencies in administration arise because environmental organisations are required to meet the requirements of both the REO and the Australian Charities and Not for Profit Commission
- should be better resourced to ensure timely responses by the Register of Environmental Organisations (REO) secretariat to enquiries by environmental

National Parks Association of the ACT – Submission to the House of Representatives Standing Committee on the Environment Inquiry into the Register of Environmental Organisations

organisations and the amendment of the REO for changes environmental organisation's details.

Detailed Submission

Definition of 'environmental organisation' under the Income Tax Assessment Act 1997, including under Subdivision 30-E

Section 30-260 of the *Income Tax Assessment Act 1997*, defines an environmental organisation as:

- (a) a body corporate; or
- (b) a cooperative society; or
- (c) a trust; or
- (d) an unincorporated body established for a public purpose by the Commonwealth, a State or a Territory;

that satisfies each requirement in sections 30265 and 30270. These two sections impose a range of conditions upon environmental organisations.

Part of section 30-265 requires the environmental organisation to have its principal purpose to be:

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

The REO Guidelines issued by the Department of Environment state that the “term natural to describe `environment’ is used to make a distinction between the natural environment and other types of environments e.g.

- built;
- cultural; and
- historic environments.

The 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.

The natural environment would exclude, for example:

- constructions such as the retaining walls of dams;
- cultivated parks and gardens;
- zoos and wildlife parks (except those parks and zoos principally carried on for the purposes of species preservation); and
- cultural sites and heritage properties.”

Other requirements of sections 30-265 and 30-270 include:

National Parks Association of the ACT – Submission to the House of Representatives Standing Committee on the Environment Inquiry into the Register of Environmental Organisations

- The maintenance of a public fund,
- Not acting as a conduit for donations to go to other organisations
- Submitting statistical returns on an annual basis
- Not transferring profits of the public fund to members of the organisation

There are also membership requirements for body corporates and co-operative societies under section 30-275.

The NPA ACT believes the breadth of these legislative requirements provide an adequate definition of an “environmental organisation”.

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

The current Federal Government has been keen to reduce undue bureaucratic burdens on organisations. The NPA ACT believes the requirements for listing on the REO are not excessive and are sufficient for organisation to adequately demonstrate that it meets the listing requirements. Information about these requirements is available in the Guidelines and FAQ sections of the REO website. However, there is a potential problem of politicization in the approval process for listing on the REO as the Minister for the Environment has the approval powers. Ideally, the approval of listings should be performed by an independent entity.

The NPA ACT believes that the removal process as outlined in Section 5 of the REO Guides is, in the main, transparent, fair and accountable. The NPA ACT does believe that the REO Guidelines should specify the period of time that would trigger removal action for non-receipt of public donations. In addition, there should be clear processes for appeal to an independent review entity.

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

To be an effective tool for the protection of the environment, the REO must allow tax deductions for a wide range of environmental activities, including advocacy. The NPA ACT would be strongly opposed to any initiative to tie tax deductibility status to only on-ground environmental activities.

It is important to note that the High Court has ruled that advocating on behalf of an issue is inconsistent with an organisation’s ability to hold tax-deductible status. The judgement clearly stated that an organisation’s ability to speak out on political issues is “indispensable” for “representative and responsible government”. In respect to charitable purposes the High Court identified that there was no general rule that excluded “political objects”. The key consideration is whether the organisation “contributes to the public welfare”, which for environmental organisations is their ability to meet their primary natural environment purpose.

Tax deductibility status should also be available to international activities by Australian based environmental organisations as long as these meet the organisation’s primary

National Parks Association of the ACT – Submission to the House of Representatives Standing Committee on the Environment Inquiry into the Register of Environmental Organisations

purpose. This would be consistent with other tax deductible areas like humanitarian aid activities.

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

While the NPA ACT believes that the REO reporting arrangements are relatively streamlined, inefficiencies arise where entities also have to report to the Australian Charities and Not for Profit Commission.

The administration of the Register and potential efficiency improvements

As part of the NPA ACT's inactions with the REO it has noted delays in responses by that organisation, which the NPA ACT believes would be rectified through the provision of additional resources to that organisation.

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


Current processes already provide avenues for investigation by these Departments. However, there should be clear processes of appeal to an independent review entity.

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

No comments on this topic.

The NPA ACT would be happy to discuss any of the issues raised within its submission and can be contacted, either by writing to our office address or through email (noting that the NPA ACT office is manned by volunteers and a daily presence is not able to be maintained). Alternatively, I can be contacted on 0410 875 731.

Yours sincerely



Rod Griffiths
President
NPA ACT
20 May 2015