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Committee Secretary
House of Representatives Standing Committee on the Environment
PO Box 2061
Parliament House
Canberra ACT 2600

Sent by email: environment.reps@aph.gov.au

20 May 2015

Dear Sir/Madam,

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

1. Thank you for the opportunity to make a submission to the Inquiry.
2. WWF is a global, independent, multicultural and non-party political environmental charity which uses the best available scientific information to build practical solutions to biodiversity conservation and sustainable development issues. It does so using a combination of field-based projects, partnerships with businesses, communities and governments, policy, capacity-building, information and education.
3. WWF deliberately seeks dialogue with all stakeholders and actively avoids unnecessary confrontation. The organisation's culture is focussed on securing tangible results, and WWF is proud of its strong track record of achievements throughout Australia. I will outline below some of the achievements that have been made possible by our generous supporters' donations not being taxed.
4. Most of WWF's resources are applied to field-based projects, partnerships, policy, capacity-building and education work. However to complement that work, WWF engages from time to time in 'advocacy', though often in response to government requests for community dialogue.
5. There have been suggestions that limitations be imposed on advocacy by environmental charities. Australian governments regularly report on the continuing decline of many aspects of the Australian environment¹ and frequently seek feedback from environmental organisations and the community on related policy matters. In these circumstances, WWF is strongly of the view that imposing limitations on the ability of environmental charities to advocate would lead to poorer environmental (and ultimately economic) outcomes and hamper public involvement in the policy making process.
6. WWF believes there are distinct merits in consistency and that environmental charities should be treated the same as all other charities in this regard.

¹ [Australia State of the Environment Report 2011](#); [NSW State of the Environment Report 2012](#); [Queensland State of the Environment Report 2011](#); [Western Australia State of the Environment Report 2007](#).

7. It is to be noted that businesses and individuals receive tax deductions for their contributions and donations to professional, industry, community organisations and research institutes, many of which regularly and aggressively challenge government decisions.

8. WWF adheres to rigorous internal governance arrangements which are externally audited to ensure its operations are efficient and effective, and that its supporters' funds are applied according to the highest standards of accountability.

WWF background

9. WWF-Australia is part of the WWF International Network, the world's largest independent conservation organisation. WWF's global mission is to *'stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature'*. WWF is active in more than 100 countries, including all countries in Asia (except North Korea), and has approximately five million supporters.

10. WWF was established in 1961 as a wildlife conservation organisation by a group of European leaders, including Prince Philip (who remains President Emeritus of WWF). In recognition of the inextricable links between humanity and the natural world, WWF's mission soon evolved into an ambitious strategy to conserve biodiversity and achieve sustainable economic and social development around the globe (see Attachment 'A' for more information).

11. WWF-Australia was incorporated in 1978. WWF-Australia presently operates field-based projects in northern Queensland, the Kimberley and the Western Australian wheatbelt, and provides support to field-based projects in India, Indonesia, Nepal, Papua New Guinea, the Solomon Islands and Fiji. WWF-Australia provides technical support to Australian businesses, communities and governments to assist them in implementing conservation and sustainability solutions. WWF-Australia engages in numerous other capacity-building, information, education and policy activities, all with a view to conserving the environment and promoting sustainable development in Australia and the Indo-Pacific Region (see further below).

12. WWF-Australia has approximately 88,000 financial supporters, 200,000 non-financial supporters and about 180,000 supporters across our social media channels.

WWF's guiding principles

13. To guide WWF in achieving its mission, the following principles have been adopted.

WWF will:

- *Be global, independent, multicultural and non-party political;*
- *Use the best available scientific information to address issues and critically evaluate its endeavours;*
- *Seek dialogue and avoid unnecessary confrontation;*
- *Build concrete conservation solutions through a combination of field-based projects, policy initiatives, capacity-building and education work;*

- *Involve local communities and Indigenous peoples in the planning and execution of its field programs, respecting their cultural as well as economic needs;*
- *Strive to build partnerships with other organisations, governments, business and local communities to enhance WWF's effectiveness;*
- *Run its operations in a cost-effective manner and apply donors' funds according to the highest standards of accountability.*

Focus of WWF-Australia's work

14. Today, WWF-Australia work is structured around key conservation initiatives:

a. **Southwest Australia.**

Terrestrial 'biodiversity hotspots' represent just 2.3% of the Earth's land surface but support more than 50% of the world's endemic plant species, and 42% of endemic bird, mammal, reptile and amphibian species (endemic species are species found nowhere else). Southwest Australia is one of the world's biodiversity hotspots. WWF-Australia's goal is for southwest Australia to retain its rich biodiversity for future generations. WWF-Australia works to achieve this through on-the-ground conservation projects which protect black-flanked rock-wallabies, Carnaby's (black) cockatoos, woylies and quendas, and information, education and policy initiatives to conserve habitat and promote sustainable development.

Some recent achievements include:

- Foxes and cats have caused the population of the black-flanked rock-wallaby to plummet, threatening the species with extinction. WWF and the Western Australia Government funded the construction of a five kilometre predator-proof fence around the 175 hectare Nangeen Hill Reserve. At the time of the fence's construction, just five rock wallabies remained at the Reserve. The population has now increased to 39.
- WWF-Australia supports the Western Australian Black Cockatoo Conservation Centre Mobile Rescue Service. During 2014, the Mobile Rescue Service rescued and treated a total of 233 sick and injured black cockatoos (which will be released when fit).

b. **Great Barrier Reef.**

The Great Barrier Reef is one of the natural wonders of the world. It also provides the foundation for Queensland's tourism and fishing industries. However the Reef is declining, losing 50% of its coral and in places up to 80% of its seagrass over the past 30 years. WWF-Australia's goal is a healthy Great Barrier Reef.

Some recent achievements include:

- WWF secured government support for farmers to implement practices which improves their profitability and productivity and reduces pollution. Over 5,000 farmers have been assisted, creating changes across 330,000 hectares (about 500,000 football fields). This has led to a:
 - 10% cut to nitrogen pollution;
 - 11% cut to sediment pollution;

- 28% cut to pesticide pollution.
- WWF-Australia fostered farm sector innovation through ***Project Catalyst***, a partnership between sugar cane farmers, The Coca-Cola Foundation, Natural Resource Management groups, Australian and Queensland governments and WWF-Australia. Achievements to date include:
 - 70 farmers participating in the program and trialling new practices;
 - Adoption of precision agricultural methods which can cut 'nutrient' pollution by 60% and 'herbicide' pollution by 90%;
 - A reduction in nitrogen fertilizer use of 47 tonnes per annum and pesticide use by 190 kilograms per annum.
- Burnett Mary Regional Group, Gidarjil Indigenous rangers, Turtle Care and WWF-Australia are protecting the Wreck Rock Beach turtle nesting site from goannas, lizards and other predators, saving over 1,200 hatchlings so far. A two-year research project is underway to devise and test innovative pest deterrent devices for future use.
- WWF has campaigned for many years for governments to adopt pollution reduction targets to begin restoring the Reef's health. Recent government action to achieve this has included the Australian-Queensland Government *Reef 2050 Plan*, the Australian Government's \$140 million *Reef Trust*, the Queensland Government commitment to ban the dumping of capital dredge spoil in the Great Barrier Reef World Heritage Area, and the decision of the Australian Environment Minister Greg Hunt MP to ban the dumping of spoil in the Great Barrier Reef Marine Park.

c. **Market Transformation.**

WWF-Australia's approach to business is constructive, collaborative and challenging as the business community offers one of the most effective routes to finding sustainable solutions to the world's pressing environmental challenges. WWF-Australia does so by working in partnership with business and by harnessing the influence, expertise, innovation, and financial support of companies committed to sustainable business practices. Australia's business community has proven adept at creating new solutions to old problems and WWF-Australia is committed to working with Australian enterprise to improve Australia's environment and create new markets and opportunities.

WWF-Australia also receives significant funding from its work with business. WWF's constructive engagement with business enables it to develop partnerships, raise funds for conservation and sustainable development, stimulate innovation in business and credibly challenge poor practices.

WWF-Australia's partnership and investment activities are largely based on a best-in sector or a significant change basis and frequently involve lifting the knowledge base to enable business partners to successfully enact change. WWF-Australia provides its technical advice to business partners in an educative manner to ensure skill sets are broadened to provide a positive legacy within each organisation.

By working with businesses, WWF-Australia hopes to transform the markets of seafood, beef, sugar cane, palm oil, timber, pulp and paper and other key global commodities. These

activities also provide businesses with commercial advantages. Rising global demand for food, fibre and fuel, and the way global industries source these commodities will make it increasingly difficult to reliably source, low risk commodities. By improving efficiency and securing sustainable supply chains, businesses can reduce their commercial risk while gaining new internationally competitive advantages.

Recent partnerships have included: Blackmores, which is partnering with WWF-Australia to achieve the highest possible standard for sustainable fish oils; Coles, to improve the sustainability of its seafood supply chain; John West, to improve the sustainability of its seafood supply chain and educate consumers about sustainable seafood choices. John West also provides generous funding for WWF-Australia's Coral Triangle program; Kimberly-Clark Australia and New Zealand, is a member of the WWF Global Forest and Trade Network and provides generous funding for WWF-Australia's Heart of Borneo program. Other valued participants of the WWF Global Forest and Trade Network include Officeworks and Bunnings.

Some recent achievements shared with private sector partners include:

- Tassal (Tasmanian Salmon) and WWF-Australia formed a Sustainable Aquaculture Partnership to support Tassal's ethical, responsible and environmentally friendly farming of salmon. WWF provided expert advice and support to Tassal through the Aquaculture Stewardship Council certification process. In November 2014, Tassal became 100% certified, the first salmon company globally to achieve this. As Tassal produces 55-60% of Australian farmed salmon, 14% of Australia's total seafood production meets the highest sustainability standards in the world.
- WWF provided sustainability training to 740 senior bankers through the ANZ Sustainability Leadership Program in Sydney, Melbourne, Perth, Brisbane, Auckland, Wellington, Hong Kong, Singapore and Jakarta. Participants have consistently reported that the training improves their ability to understand ANZ's sensitive sector policies and ability to avoid, minimise or mitigate complex social and environmental risks.

Business in the 21st century will continue to evolve away from traditional methods of supply and operation, driven by both necessity and consumer demand. Australia can and should be an innovative leader in this process, and WWF-Australia will continue to work closely with its growing list of business partners to maximise opportunities associated with better environmental outcomes.

d. **Climate Change.**

*Climate change 'will devastate homes, land, and infrastructure. ... The pressures caused by climate change will influence resource competition while placing additional burdens on economies, societies, and governance institutions around the world. These effects are threat multipliers that will aggravate stressors abroad such as poverty, environmental degradation, political instability, and social tensions – conditions that can enable terrorist activity and other forms of violence.'*² WWF has a similar goal to the Australian Government, to avoid a global warming of 2 degrees. WWF-Australia works to achieve this through information, education and policy initiatives, including Earth Hour, WWF's global climate

² United States Department of Defense, [Quadrennial Defense Review 2014](#), page 8.

change community outreach program. Earth Hour was an initiative of WWF-Australia, Leo Burnett and Fairfax Media in 2007, and has since become a global event with citizens of more than 162 countries participating. In 2014 more than 7 million Australians participated in Earth Hour (as well as millions more overseas).

Some recent achievements include:

- WWF-Australia partnership with the Australian Coal Association, Construction Forestry, Mining and Energy Union and The Climate Institute to propose the establishment of a National Carbon Capture and Storage Taskforce under the Council of Australian Governments (COAG). The Taskforce was subsequently established and charged with developing a plan to facilitate the rapid demonstration and commercialisation of low emission fossil fuel power generation. The Australian Government committed to build up to three demonstration carbon capture and storage (CCS) power stations by 2020.

e. **Australian biodiversity policy.**

Australia is one of 17 'megadiverse' countries. This group of countries occupies less than 10% of the global surface area, but supports more than 70% of the biological diversity on Earth. WWF-Australia's goal is for Australia to retain its biodiversity for future generations. Recent activities (each responding to invitations from Australian governments) include submissions in relation to the Australian Government's *Assessment Bilateral Agreement – Draft Conditions Policy, Outcomes-Based Approvals Policy and Outcomes-Based Approval Conditions Guidance*, and the NSW National Parks Establishment Planning process on 10 April 2015; participation in the *National Biosecurity Committee* strategic workshop in Canberra on 14 May 2015 and the Budget lock-up in Canberra on 12 May 2015 (WWF-Australia lodges a 'pre-Budget submission' in response to the Treasurer's invitation to the public).

WWF-Australia was selected by the Australian and New South Wales Governments to be a member of the national steering committee of the World Parks Congress, which was held in Sydney in November 2014. WWF-Australia funded forest and finance experts from Indonesia and the United States to attend and present at the Australian Government's Asia-Pacific Rainforest Summit in Sydney in November 2014

Some achievements include successfully advocating for or in support of:

- Tax deductions for private sector-led conservation initiatives.
- The National Water Initiative, which introduced registers of water rights, trading in water rights, proper pricing and plans to achieve sustainable water use in over-allocated or stressed water systems.
- The Howard³/Carr/Beattie/Bligh/Lennon Governments' protection of Australian land, waters, vegetation and biodiversity by ending broadscale clearing of native vegetation in New South Wales, Queensland and Tasmania.
- The National Reserve System ('national parks').

³ <https://www.liberal.org.au/achievements-government>

f. **Heart of Borneo.**

The rainforests of Borneo provide jobs and livelihoods for about 11 million people, and protect water catchments which supply about 19 million people. These rainforests are among the last strongholds on Earth for critically endangered orang-utans and rhinos, and store about 3.2 billion tonnes of carbon, making them one of the world's largest potential sources of greenhouse gases. WWF's goal is the conservation of biodiversity and the sustainable development of Borneo.

Some recent WWF achievements include:

- Working in partnership with major forestry companies and local communities in West Kalimantan and Central Kalimantan Provinces, Indonesia to improve the sustainability of forestry operations over an area of approximately 4 million hectares. Results to date include:
 - Five concessions totalling 696,000 hectares certified under the Forest Stewardship Council;
 - Three concessions totalling 167,000 hectares in the process of being certified;
 - Five concessions totalling 290,000 hectares committed to the certification process;
 - Patrols operating from five communities to prevent illegal forest clearing and poaching;
 - Research-based sustainable livelihoods programs (growing and supply of food to logging companies and eco-tourism) underway in three local communities.
- The Sebangau peatland emissions reduction project in Central Kalimantan 'rewets' drying peat to avoid the release of methane and the incidence of forest fires by employing local community members to build dams to block disused canals originally dug by illegal loggers. Results to date include:
 - Approximately 60,000 hectares of peat land 'rewet';
 - 800 dams built; and
 - 6,000 hectares of forest replanted.

The project is estimated to avoid the release of a minimum of 1.4 to 1.5 million tonnes of greenhouse gas emissions each year for 30 years.

g. **Coral Triangle and South West Pacific.**

The fisheries of the countries of the Coral Triangle and South West Pacific region sustain over 200 million people. Subsistence and small-scale commercial coastal fisheries are the foundation of regional economies. Offshore fishing, largely by distant water fishing fleets, provides a significant portion of national income, particularly for South Pacific nations. WWF's goal is the sustainable management of the region's marine resources. WWF works to achieve this through on-ground and community projects, information, education and policy initiatives, and partnerships with businesses, communities and governments in Indonesia, Papua New Guinea, Solomon Islands and Fiji.

Efficiency and effectiveness of WWF-Australia

15. WWF-Australia could not operate without the generous support of its 85,000 donors. WWF-Australia repays (to the extent that it can) its supporters' trust by running its operations in as efficient and effective manner as possible, and applies supporters' funds according to the highest standards of accountability.

16. WWF-Australia's finance department includes three qualified accountants (two chartered accountants and one certified practising accountant) and monitors all programs through budget development and regular reviews.

17. Financial audits are conducted by PricewaterhouseCoopers (a firm of chartered accountants). In addition, in 2011 BDO (a firm of chartered accountants) conducted an internal audit of WWF-Australia. This audit focused on how well-equipped WWF-Australia is to avoid loss of funds through fraud or misappropriation.

18. WWF International maintains a global 'whistleblower' hotline to which complaints about any matter can be made by WWF staff anonymously. These complaints are then investigated by specialist staff based in London.

19. All WWF-Australia financial reports are available to any member of the public on its website.

Comments on Terms of Reference

20. WWF welcomes the opportunity to comment on the Terms of Reference of the Inquiry. The comments are based on a careful review of WWF's activities.

21. WWF must be transparent, efficient in its use of supporters' money and effective in the outcomes it achieves.

Terms of Reference	WWF submissions
the definition of 'environmental organisation' under the <i>Income Tax Assessment Act 1997</i> , including under Subdivision 30-E	WWF believes the definition is adequate and does not require change.
activities undertaken by organisations currently listed on the Register and the extent to which these activities involve on-ground environmental works	Despite considerable effort over the past thirty years, Australian Government reports continue to describe the continuing decline of many aspects of the environment. This is particularly true of soil and water resources, greenhouse gas emissions and biodiversity: cf. <u><i>Australia State of the Environment Report 2011</i></u> ; <u><i>NSW State of the Environment Report 2012</i></u> ; <u><i>Queensland State of the Environment Report 2011</i></u> ; <u><i>Western Australia State of the Environment Report 2007</i></u> .

Terms of Reference	WWF submissions
	<p>If we as a nation are to slow, stop and then reverse this decline, and leave our environment in a healthier condition for future generations, WWF submits that this will require far more than ‘on-ground works’ which, as the examples WWF has provided of its own work above, are often of a relatively small scale with clear, but limited, benefits to the environment more generally. Kakadu, the Kimberley, the Great Barrier Reef, the Blue Mountains National Park and the whole Australian national park system, all of which are major attractions for tourists (and therefore foreign exchange), are a direct result of advocacy campaigns.</p>
<p>reporting requirements for organisations to disclose donations and activities funded by donations</p>	<p>WWF strictly complies with its reporting requirements with respect to donations and activities. WWF believes that the existing requirements are reasonable and sufficient to ensure effectiveness and efficiency, openness and transparency.</p>
<p>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</p>	<p>WWF believes the compliance arrangements and measures are adequate to ensure effectiveness and efficiency, openness and transparency.</p>
<p>relevant governance arrangements in international jurisdictions, and exploring methods to adopt best practice in Australia</p>	<p>WWF believes that Australia operates at international best practice with respect to the governance of environmental charities.</p>

‘Advocacy’

22. There have been suggestions that limitations be imposed on advocacy by environmental charities. Australian governments regularly report on the continuing decline of many aspects of the Australian environment and frequently seek feedback from environmental organisations and the community on related policy matters. In such circumstances, WWF is strongly of the view that imposing limitations on the ability of environmental charities to advocate would lead to poorer environmental (and ultimately economic) outcomes and hamper public involvement in the policy making process.

23. The importance of advocacy in the democratic process was recently the subject of a High Court of Australia decision in *Aid/Watch Incorporated v Commissioner of Taxation* [2010] HCA 42 (1 December 2010). In that case the High Court majority said (paragraphs 44 and 45):

44. ... In Australia, the foundation of the "coherent system of law" of which Dixon J spoke in Royal North Shore Hospital is supplied by the Constitution. The provisions of the Constitution mandate a system of representative and responsible government with a universal adult franchise, and establishes a system for amendment of the Constitution in which the proposed law to effect the amendment is to be submitted to the electors. Communication between electors and legislators and the officers of the executive, and between electors themselves, on matters of government and politics is "an indispensable incident" of that constitutional system. ... the Constitution informs the development of the common law. Any burden which the common law places upon communication respecting matters of government and politics must be reasonably appropriate and adapted to serve a legitimate end in a manner which is compatible with the maintenance of that system of government.

45. The system of law which applies in Australia thus postulates for its operation the very "agitation" for legislative and political changes of which Dixon J spoke in Royal North Shore Hospital. ... Rather, it is the operation of these constitutional processes which contributes to the public welfare. A court administering a charitable trust for that purpose is not called upon to adjudicate the merits of any particular course of legislative or executive action or inaction which is the subject of advocacy or disputation within those processes.

24. The *Aid/Watch* decision was recently applied by the New Zealand Supreme Court in *Re Greenpeace of New Zealand Incorporated* SC 97/2012 [2014] NZSC 105 (6 August 2014).

25. It is to be noted that businesses and individuals receive tax deductions for their contributions and donations to professional, industry, community organisations and research institutes, many of which regularly and aggressively challenge government decisions.

26. WWF believes there are distinct merits in consistency and that environmental charities should be treated the same as all other charities in this regard.

27. WWF takes great care to ensure that any advocacy it does carry out is strictly non-party political. Advocacy is guided by WWF's key policy: *Advocacy with Excellence* (Attachment 'B'). *Advocacy with Excellence* emphasizes that WWF is independent and non-party political. WWF staff are required by their employment contracts to adhere to *Advocacy with Excellence*.

28. Particular care is taken at elections. For example, WWF recently sought the advice of Mr Kieran Smark SC in relation to activities that it proposed to undertake in the lead-up to the 2015 Queensland election (Attachment 'C'), and adhered strictly to his advice (in fact actually adopted a more conservative position). WWF was scrupulous in ensuring equal and fair dealings with all major political parties. Throughout the election period WWF maintained daily contact with the Australian Labor Party and Liberal National Party, and regular contact with the Katter Australia, Greens and Palmer United parties.

29. In *Aid/Watch* the High Court said that communication between electors and legislators and the executive, and between electors themselves, on matters of government and politics,

commonly referred to as freedom of speech, are '*an indispensable incident*' of Australia's democracy. Conservation and the sustainable development of natural resources have been accepted as matters of government and politics in Australia since European settlement. Curtailing the right of environmental charities to speak for the conservation and sustainability, by taxing private donations, will reduce the public welfare by undermining the independence of Australian society, restrict the free exchange of views and opinions, and damage our environment.

30. WWF requests an opportunity to make oral submissions to the Inquiry.

31. If you have any questions about this submission, please contact Paul Toni, National Manager – Science, Policy and Government Partnerships on _____ or _____

Yours faithfully,

Dermot O’Gorman
CEO
WWF-Australia

Attachment 'A'

WWF conservation and sustainable development

WWF became one of the first conservation organisations to integrate conservation and sustainable natural resource use, and its mission gradually evolved from wildlife conservation into a vision to preserve biodiversity while also achieving sustainable economic and social development around the globe.

This vision was first articulated – and the term “sustainable development” first coined – in *The World Conservation Strategy*, published in 1980 by WWF, the United Nations Environment Programme and the International Union for the Conservation of Nature (IUCN). This landmark report inspired the definition of sustainable development: “*Development that meets the needs of the present without compromising the ability of future generations to meet their own needs*” – adopted by the United Nations’ World Commission on Environment and Development in its report, *Our Common Future*, published in 1987.

In 1991, the three organisations partnered again to publish *Caring for the Earth – A Strategy for Sustainable Living*. This significant report identified actions to improve the quality of life of Earth’s people while also safeguarding the natural environment, and fed into the 1992 United Nations Conference on Environment and Development, known as the Rio Earth Summit. WWF was a key participant at this influential summit, the World Summit on Sustainable Development in 2002, and the United Nations Conference on Sustainable Development, also held in Rio de Janeiro, in June 2012.

WWF’s position on poverty and sustainable development has continued to mature with the adoption in 2009 of a global WWF *Poverty and Conservation Policy*. This Policy requires WWF to assist poor communities achieve tangible benefits from the conservation and sustainable use of natural resources, and to adopt a “pro-poor position” where conservation goals threaten to further marginalize them.

WWF is committed to being global, independent, multicultural and non-party political. It uses the best available scientific information to address issues and critically evaluate its endeavours. Wherever possible, WWF seeks to develop dialogue and avoid confrontation as it supports communities to address the environmental pressures that are critical to their successful, long-term development.



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ADVOCACY WITH EXCELLENCE

1. PURPOSE

Principles for environmental advocacy within WWF Australia.

Advocacy, for WWF Australia, simply means influencing decision-making in the interests of conservation.

Defined as such, it is not necessary to debate "whether or not WWF Australia is an advocacy organisation." Of course it is. Our concerns and our supporters demand it. We would, and should become irrelevant and unsupported if we didn't translate the results of our field work and scientific advice into specific decisions, policy commitments or legislation which benefit wildlife and wild places in Australia.

2. POLICY

There are many different ways of pursuing advocacy, from cooperative discussions with decision-makers, to sharply critical personal attacks. Therefore, it is quite proper and important to ask "What is the advocacy style of WWF Australia?"

All staff engaged in advocacy are required to use the following principles of "advocacy with excellence".

3. PROCEDURES

Advocacy with Excellence is defined as:

1. **Being politically non-partisan.** We offer our general perspective and specific advice to governments of all political stripes. We apply our judgement in considering support for genuine conservation steps taken by anyone.
2. **Being non-ideological.** We recognise that a wide range of stakeholders in Australia is interested in, and necessary to, making progress on conservation concerns. These interests include government, business, labour, aboriginal interests, scientists and other non-government organisations. Therefore, we don't

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summarily rule out working with whole sectors by subscribing to "anti" ideologies eg. anti-logging, anti-hunting, anti-corporate or anti-labour. We support or work with anyone who shares our conservation mission.

3. **Being efficient.** We focus on the key players who must make decisions in the interests of conservation. In some cases, this may be one or two strategically placed individuals. In other cases, decision-makers may first need to be convinced of public will, so our target may be the general public. However, the time and resources available to WWF Australia are far too limited to make advocacy a bigger job than it has to be.
4. **Getting results.** We seek commitments that are sufficient to achieve conservation results and specific enough so that progress can be measured. We will not be satisfied with partial commitments that don't really do the job, or worse, rhetorical commitments that create the illusion of progress.
5. **Being scientifically accurate.** We base our advocacy on the best scientific advice available, and often on fieldwork conducted exclusively for WWF. When data are uncertain or not definitive, we say so, although when in doubt, we give the benefit to conservation.
6. **Doing our homework well.** We thoroughly analyse both the substance and the strategy of an issue before publicly engaging in it. If for some reason we cannot do this, it is better not to engage an issue through advocacy, because it will not be "advocacy with excellence".
7. **Checking someone else's homework.** We do not risk WWF's credibility by uncritically accepting that others have done their homework up to our standard.
8. **Staying within our area of expertise.** We don't take official positions on environmental concerns, even those which may be extremely important and related to the work of WWF Australia, if we have no particular expertise on these issues. Naturally this is true for broader issues too, which may have a conservation aspect, but which require other analytic skills not resident within our organisation.
9. **Trying cooperative approaches first.** We make an honest and thorough effort to influence decision-making through a cooperative approach, clearly documenting the response (or lack of), before we move to more critical approaches.



10. **Following due process internally.** The scientific advisers, board and executive committee of WWF Australia need to be properly consulted regarding substance and strategy on major advocacy concerns.
11. **Taking the "high road."** Throughout our advocacy efforts we stick to our conservation principles, and do not engage in personal or institutional attacks. Even lawsuits should be ways of testing and implementing these higher principles.
12. **Being prepared to say "No".** Nearly always, advocacy is strengthened by attracting others to our cause. But we do not advocate causes or positions simply because others want us to, without having met all the other conditions listed above.

4. CONCLUSION

These are the elements of "**advocacy with excellence**". With these guidelines, WWF Australia can be a positive, energetic agent of change for the better. This kind of advocacy should be one of WWF Australia's hallmarks for the '90s, because it builds a track record of achievement which in turn attracts respect and further support from all sectors of society.

David Butcher
Chief Executive

Date of Issue: July 2004

Revised:

'C'

KIERAN SMARK SC

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7 January 2015

My ref: 1705 WWF
Your ref:

Paul Toni
WWF-Australia
Level 1, 1-3 Smail Street, Ultimo NSW 2007

By email:

Dear Paul,

WWF: re proposed advertising and campaigns

I refer to my earlier letter of advice of 5 September 2014 to Stewart Walters, CFO of WWF-Australia, and to your emails to me of yesterday and today. I also refer to:

- the email advice previously given to WWF by Baker and MacKenzie on 22 and 24 December 2014 with which I am briefed;
- the email from Dr Greg Ogle of 7 January 2015 forwarded to me.

I advise as follows:

A. Questions for opinion

1. **Question 1:** Could the TV ads and media statements, when combined with the 'pledge' and the "scorecard", have the effect of being "statements that may ... fairly be seen as seeking to engage more or less directly in the electoral process" as discussed in paragraph 32 and 31 of your Advice of 5 September (noting that this issue arises as a result of Clause 6 of WWF's Constitution rather than the Aid/Watch judgment in itself)?
2. **Question 2:** Would the above situation change if the Fight for the Reef website did not include the 'pledge' and WWF did not distribute the 'pledge form' to its supporters and WWF did not partner with AMCS in the 'pledge form'?

B. Answers to questions for opinion:

3. Question 1: no.
4. Question 2: does not arise.

C. Reasons for opinion

5. I have considered the various scripts and statements sent to me, together with the website found at <https://fightforthereef.org.au/>, the “scorecard” and the 4 page document entitled “GBR_15_Election_Plan_Digital_070115” (which is I think a work in progress). I also note the terms of the “pledge” document. As my advice is sought urgently, I will not pause to set out the relevant parts of each of these documents but they can be seen from the emails sent to me.
6. Against the background of my earlier letter of advice, it will be recalled that there are at least two overlapping issues at play:
 - (a) The nature of the activities which WWF can engage in and still retain its status as a charitable organisation including for the purposes of eligible deductible gift recipient status;
 - (b) The limits imposed by clause 6(i) of the WWF Constitution, specifically that WWF must not engage in, fund or otherwise support any activity that is directed towards the promotion of political causes or political parties.
7. The second of these questions is purely a matter for WWF’s own governance, but it is appropriately the subject of advice.
8. When regard is had to the principles summarised in my earlier letter of advice, notably by reference to the decision in *Aid/Watch v FCT* (2010) 241 CLR 539, and by reference to TR 2011/4, I think that these two issues turn on the same matters in the present context, as the following discussion will show.
9. The starting point is that it seems to me that the underlying objectives of WWF, in aid of which the various proposed publications are taken, are themselves objectives which are beneficial to the community. (See my earlier letter of advice at paragraph 27 and especially 29.)
10. In my view, the proposed publications by WWF, although they are clearly directed to the upcoming Queensland election, do not amount to activity that is “directed towards the promotion of political causes or political parties” (quoting clause 6(i) of the WWF Constitution). There are two related reasons for this.
11. The first is that the term “political” as it is used in the WWF Constitution is not used in a broad sense (for in a broad sense, any appeal to public opinion is an exercise in politics) but in a more confined way (see generally paragraph 31 of my earlier letter of advice). A “political cause” in this sense is not, I think, to be identified with some matter such as “concern for the Great Barrier Reef”, but rather the more concrete issues of who will win an election. And as Dr Ogle has pointed out in his email of today, the prohibition is framed in terms of “support[ing] any activity that is *directed towards* political causes or political parties” (emphasis added). This suggests that the prohibition is on the furthering of political causes *per se*, not on the use of political means directed towards *other* objectives (such as that set out in clause 6(a) of the WWF Constitution).

12. The second is that the approach taken by WWF in its “scorecard” is not to declare (in the style of a newspaper editorial) that voters should vote for one party or another. Taken by itself, or in conjunction with the proposed television advertisements, or the “pledge” it seems to me that the highest that the proposed WWF campaign could reasonable be put is:
 - (a) The health of the GBR matters, and should matter, to the people (and voters) of Queensland;
 - (b) Voters in the Queensland election should have regard to the policies of the respective parties in relation to the GBR when casting their votes;
 - (c) WWF has assessed those respective policies by reference to criteria based on the wellbeing of the GBR and as part of the campaign is presenting that assessment, in summary form, to the voters of Queensland.

13. This seems to me to fall some way short of engaging in the promotion of a political cause; at its highest, it is engaging in aspects of the political system to further WWF’s main objectives. I would say the same if WWF held public meetings or rallies in relation to the GBR. Where the line would be crossed (in descending order of obviousness) appears to me as follows:
 - (a) If WWF fielded its own candidates in the election;
 - (b) If WWF unequivocally endorsed particular candidates, for example, by permitting a candidate to brand his or her ballot paper with the WWF logo, or by making statements that WWF urged Queensland voters to vote for Mr/Ms X (e.g. by handing out a how to vote card at election booths, indicating how ballot papers should be filled out).¹
 - (c) Likewise if WWF unequivocally endorsed a particular party in the same way.

14. In my view, the form of scorecard I have been shown (which I am instructed is similar in form to the one which is proposed to be used for the 2015 election) does not do (b) or (c). It simply presents to voters WWF’s opinion as to which parties’ policies, in which respects, best advance the health of the GBR. Even if the outcome of that assessment makes it clear that WWF assessed one particular party as having the “best” position in relation to the GBR, that does not seem to me to go beyond the provision of information to the voting public, even coupled with the Pledge document’s exhortations to “vote for [the Reef]” or to “protect our reef this election” or the television advertisements exhortation to “vote to save the Reef”.

15. Despite the fact that the publications in question are directed to influencing the outcome of a particular election, I do not think they are materially different from the sorts of activities considered in Example 12 of TR 2011/4 at paragraph 96, in particular “analysing the ... policies of political parties ... publicly

¹ See further comments on this later in this letter.

commenting on [environmental] issues, and issuing media releases in relation to government environmental policies and legislative proposals”.

16. One way of testing the proposition is whether WWF would rank poorly a party which in fact promised to meet all the commitments which WWF sought, because the “true purpose” of WWF was to secure the election of a particular party, not a party with particular policies. I assume that subject perhaps to some allowance being made to doubt the sincerity of a “deathbed conversion”, WWF intends to assess the responses made by the various parties in good faith, by reference to stable criteria as to what would be in the Reef’s best interest. On that assumption, it seems to me that in carrying out the campaign, WWF is simply furthering its (charitable) objectives.
17. Nor does the High Court’s decision in *Aid/Watch* suggest otherwise. The majority at [44] noted the Constitutional establishment of a system in which communications between electors and government and other electors was an “indispensable incident”. If it would be permissible for WWF to comment publicly on various political parties’ Reef policies *between* elections, why should that right be circumscribed simply because the communication is focused on the election itself, assuming always that the ultimate ends being served are for the public welfare?
18. Based on the decision in *Aid/Watch*, there are credible arguments that even handing out carefully drawn “how to vote” cards might not offend the charitable principle (see paragraph 13(b) above), but I think the argument could go either way, and I recommend against a campaign that extends so far. (Some of these arguments are canvassed by Dr Ogle in his thoughtful email of today.)
19. In my view the proposed material, including the scorecard (assuming it is in similar form to the one I have been shown), either separately or taken together, could not reasonably be regarded as offending either WWF’s charitable status, or the restrictions in its Constitution.

Please contact me with any questions.

Yours faithfully,

Kieran Smark