

**Standing Committee on the
Environment
Inquiry into the Register of
Environmental Organisations**

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EXECUTIVE SUMMARY

APPEA, the peak body representing Australia's oil and gas industry, welcomes the opportunity to provide a submission to the Standing Committee on the Environment Inquiry into the Register of Environmental Organisations.

As a significant contributor to the national economy through job creation, investment and government revenue, we welcome regulation and legislation that fosters responsible resource development based on sound evidence and science.

In providing this submission to the Inquiry we would like to make clear that:

1. We acknowledge the case for Deductible Gift Recipient (DGR) status for those environmental organisations whose work supports practical on-ground environmental protection, like that of Landcare Australia for example; and
2. We support the freedom of any individual or group to engage in political advocacy, and note that the generation by lawful means of public debate can be a charitable activity in its own right. We do not seek to limit or alter this legal principle.

However, a key question that underpins APPEA's submission is: Has the original intent of the register – to support practical work to conserve and protect the natural environment – been subverted to subsidise illegal activity and activism aimed at preventing and constraining lawful development to the detriment of the public interest?

For example, groups listed on the Register appear to be using funds raised publicly to:

- Support illegal activity by training environmental activists to take part in illegal blockades;
- Pay fines levied by the Courts on individual environmental activists in relation to such blockades¹;
- Undertake activities unrelated to the acceptable conduct for groups listed on the Register or charitable groups more generally. For example, seeking tax deductible donations to mount litigation against lawfully approved development²;
- Work against the public good by undertaking misleading campaigns³ to incite fear in the community with the end purpose of delaying and frustrating the lawful development of publicly owned resources⁴.

¹ <http://www.pressreader.com/australia/the-courier-mail/20150525/281642483764605/TextView>

² <https://www.givenow.com.au/edonsw>

³ <http://www.miningaustralia.com.au/news/lock-the-gate-alliance-admits-to-misleading-report>

⁴ For example: <http://www.northernstar.com.au/news/anti-csg-protesters-block-access-farmers-property/2187073/> which describes protest action undertaken by <http://csgfreenorthernrivers.org/> which is affiliated with Lock the Gate which is listed on the Register. Also see the executive summary of 'Stopping the Coal Export Boom' produced by a coalition of activist groups (many listed on the Register) with the purpose of disrupting and delaying lawful development http://www.abc.net.au/mediawatch/transcripts/1206_greenpeace.pdf

We further submit there is insufficient oversight to ensure listed groups meet the requirements of the Register on an ongoing basis.

The process for admission to the Register involves an organisation providing evidence of its environmental purpose or purposes by listing its formal objects as part of its constitutional documents and ensuring its principle purpose is:

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

However, once listed there appears to be little oversight from government to ensure groups are operating in accordance with their constitution. In this regard we note the Department of the Environment has stated it does not have the resources to undertake an “extensive randomly based audit program” of groups on the Register⁵.

As such there are groups that do not appear to qualify but remain listed on the Register.

There has been growth of almost 12,000% in the number of organisations listed on the Register since its introduction in 1992.

Given the substantial and uncapped public subsidy on offer via the Register it is essential the public is assured that organisations listed are in compliance with and not deviating from their formal objectives. This assurance should be provided by proactive compliance and enforcement action from government and not be left to third parties to monitor and report potential breaches.

There also groups that are not listed on the Register but nevertheless claim the benefit of DGR status by virtue of ‘affiliation’ with groups that are on the Register.

CounterAct⁶ for example, 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.

CounterAct obtains public subsidy via its ‘affiliation’ with Friends of the Earth but does not itself make mention of any formal objectives or practical activities beneficial to the natural environment.

It is therefore appropriate and timely the Parliament considers the status and operation of the Register, including whether or not public funding is being directed towards activities that are inconsistent with the original intent of the measure.

⁵ Senate Environment and Communications Legislation Committee Budget Estimates Hansard, 25 May 2015

⁶ <http://counteract.org.au/>

APPEA's response to the Inquiry terms of reference in this submission is based on what we consider to be fair and reasonable public policy principles:

1. **Not in the public interest; not a charity:** Environmental activist groups that are primarily engaged in frustrating the lawful development of publicly owned resources fail the public interest test and should not qualify as charities or receive public subsidy.
2. **Transparency:** Groups that are deductible gift recipients should be open and transparent about who funds their activities. Environmental activist organisations that are being subsidised by the community should be required to disclose the sources of their funding above reasonable threshold levels.
3. **Accountability:** Environmental activist organisations that receive taxpayers' money should not be allowed to keep their funding secret. Accessing public subsidy through DGR status to support charitable works should carry an obligation to publicly demonstrate that the subsidised activities are consistent with the charitable status. Government should ensure that subsidies to charities are being expended in support of activities that are of benefit to the public.

It is currently difficult to draw any firm conclusions about the operations of some groups as a result of the lack of transparency and accountability for environmental activist groups seeking to claim a share of the uncapped public benefits on offer from the Register.

We note statistical returns required of groups listed on the Register are confidential.

In this regard, some organisations listed on the Register and benefiting from DGR status have refused or been unable to reveal where their funding comes from when questioned⁷. Environmental activists that are being subsidised by the taxpayer should not be able to keep the sources of their funding secret.

In this submission we elaborate on the above issues and also provide comment on the Inquiry's terms of reference.

AUSTRALIA'S OIL AND GAS INDUSTRY

Australia's oil and gas industry accounts for 2.1% of Australia's GDP. In 2012-13 it contributed \$32 billion to the national economy, and by 2030 the industry's total economic contribution is projected to be about 2.65% of GDP – some \$67 billion⁸.

Liquefied natural gas (LNG) projects are driving an unprecedented level of investment in Australia. Together, the six LNG projects under development together with the LNG project that recently commenced represent an investment in Australia by the industry of over \$200 billion.

⁷ <http://www.abc.net.au/news/2015-02-18/calls-for-activists-to-be-stripped-of-charity-status/6130604>

⁸ PriceWaterhouseCoopers report, *Value Adding: Australian Oil and Gas Industry*

Australia's natural gas reserves also have the unique potential to significantly reduce greenhouse gas emissions at relatively low cost.

This could occur both within Australia through the greater use of natural gas (particularly for electricity generation), and throughout the Asia-Pacific region by increasing LNG exports.

Natural gas offers a viable source of large-scale base load and peaking power with significant environmental benefits. When combined with other low or no-emissions fuels, it can contribute enormously to reducing the growth in Australia's greenhouse gas emissions. Electricity produced from gas produces 50-70% less greenhouse gas emissions than current coal-fired power generation facilities.

As LNG, gas can also cut emissions in other countries. For every tonne of greenhouse gas emissions generated by LNG production in Australia, between 4.5 and 9 tonnes are avoided in Asia when this gas is substituted for coal in electricity generation.

These are the benefits to the Australian community and the region that are at stake and are being ignored by environmental activist groups that seek to fund their objective of preventing the lawful development of Australia's publicly owned resources by a taxpayer funded subsidy.

INQUIRY TERMS OF REFERENCE

THE DEFINITION OF 'ENVIRONMENTAL ORGANISATION' UNDER THE INCOME TAX ASSESSMENT ACT 1997, INCLUDING UNDER SUBDIVISION 30-E

We interpret the definition of 'environmental organisation' under the ITAA as describing organisations that primarily undertake practical actions to protect and enhance the natural environment and/or organisations that provide information, research and education on the natural environment.

Though we acknowledge that the law has evolved since 1992, we submit that the original intent of Parliament in defining 'environmental organisation' did not encompass activism from groups with the primary purpose of preventing and delaying lawful development.

While there were originally five environmental organisations listed in the tax law gift provisions that preceded the establishment of the Register in 1992 there are now 594, representing a 12,000% increase over 20 years.

A number of organisations on the Register are in fact principally engaged in environmental activism; acting against the public interest by seeking to prevent the lawful development of publicly owned resources and by promoting and supporting illegal activity.

The oil and gas industry has been the target of campaigns by such groups that seek to promote an anti-industry agenda, mislead the community and misrepresent scientific research and the activities of the industry. The goal of these campaigns is to frustrate the lawful development of Australia's oil and gas resources.

With respect to the provision of information, research, and education, we submit that this requirement of 'environmental organisations' should be interpreted in line with the requirements of the *Charities Act 2013*:

- A purpose is not charitable if it lacks any educational merit or has little or no value to the public;
- While education does not have to be free of values, information presented should be based on evidence and reasonable analysis; and
- Where a charity's purpose is to promote a certain view, it may not be advancing education if that view is not genuinely educational.

We submit that a number of organisations listed on the Register are not providing information, research, and education in line with the above definition.

Given the above we submit that either more rigorous compliance and enforcement action is needed, or that the definition of 'environmental organisation' should be tightened so that it clearly reflects Parliament's intent.

THE REQUIRMENTS TO BE MET BY AN ORGANISATION TO BE LISTED ON THE REGISTER AND MAINTAIN ITS LISTING

As stated above, we consider that the intent of Parliament in establishing the Register was to support practical efforts to protect and conserve the natural environment rather than to subsidise environmental activists opposed to lawful development.

Given that organisations on the Register are in receipt of a significant public subsidy we consider it appropriate that such organisations be required to be transparent and accountable and demonstrate that the subsidies they receive are directly linked to specified outcomes. Sources of funding above reasonable threshold levels should be mandatorily disclosed.

ACTIVITIES UNDERTAKEN BY ORGANISATIONS CURRENTLY LISTED ON THE REGISTER AND THE EXTENT TO WHICH THESE ACTIVITIES INVOLVE ON-GROUND ENVIRONMENTAL WORKS

There are a number of examples of activist groups listed on the Register which are principally working to oppose and constrain resource development rather than conserve and protect the natural environment. At best, such groups devote little of their resourcing to practical on-ground efforts to protect and enhance the environment.

In Attachment 1 we have provided a number of case studies of activist groups that are being subsidised by the Register.

These include a group, CounterAct, that is not actually listed on the Register, and whose activities are far removed from practical work to conserve and protect the natural environment, but which nevertheless touts for tax deductible donations by virtue of being 'affiliated' with an organisation that is listed on the Register (i.e. Friends of the Earth).

CounterAct advises on how to undertake illegal activity to inflict maximum commercial impact, runs activist training camps that teach methods of blockading lawful development, advises

activists to destroy incriminating evidence prior to protesting, and details how to be 'strategically' arrested by police. It is difficult to see how these activities could be classed as a charitable endeavour worthy of public subsidy.

There are also groups listed on the Register that have admitted to misleading Parliamentary Inquiries on the findings of scientific studies, that seek to mislead the public by linking coal seam gas exploration and development to indigenous heritage sites that are in fact located thousands of kilometres away from any coal seam gas activity.

Such conduct works against the public interest by promoting the blockading of private land and working to prevent the lawful development of publicly owned resources.

Some groups listed on the Register promote their preferred suppliers of renewable energy which then pay a bounty to the activists for each new customer signed up.

It is not clear how the funds associated with such corporate sponsorships are accounted for as little detail of the funding arrangements of such groups is published, and the statistical returns required of organisations on the Register are confidential. However, it is difficult to see how the vilification of Australian companies for financial gain is something that should be subsidised by the taxpayer as a charitable endeavour.

REPORTING REQUIREMENTS FOR ORGANISATIONS TO DISCLOSE DONATIONS AND ACTIVITIES FUNDED BY DONATIONS

It is reasonable to expect a high level of transparency and accountability for groups that receive the benefits of charitable status. Groups that receive publicly subsidised funding to support on-ground environmental protection works should be required to publicly demonstrate they have expended those funds on such works.

There should also be a reasonable degree of transparency in the sources of funding for such groups however a number of activist groups in receipt of public subsidy do not detail the sources of their income. We submit that it is not in the public interest for there to be secrecy and opaqueness surrounding the funding arrangements of publicly subsidised groups that feature prominently in Australia's political landscape. While any group or individual is free to engage in political advocacy, and some forms of political advocacy are classed as charitable, we consider the public expects there to be a reasonable degree of transparency in who is funding such advocacy.

In this respect, we note that while organisations listed on the Register are required to provide an annual 'statistical return' these cannot be made public due to taxpayer confidentiality provisions. Those organisations that are also registered as charities are required to answer financial questions in the Australian Charities and Not-for-profits Commission's (ACNC) annual information statement, however limited information is made public.

We submit that groups that would prefer to keep the sources of their income and the end purpose of their expenditure secret should not be eligible to receive the benefits of charitable status.

THE ADMINISTRATION OF THE REGISTER AND POTENTIAL EFFICIENCY IMPROVEMENTS

We have no specific comments on the efficiency of the administration of the Register.

However, we consider it essential that groups on the Register should be accountable and transparent in their operations.

Given that the Department of the Environment has stated⁹ it does not have the resources to undertake an “extensive randomly based audit program” of groups on the Register, the current administration of the Register seemingly does not provide any significant assurance that the organisations listed are acting in accordance with the requirements of the Register.

There is also no public transparency in the Register given that the statistical returns required of groups listed are confidential.

We therefore submit that the Register is not being administered appropriately.

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

The Department of the Environment and the Australian Taxation Office should be undertaking an ongoing compliance program to ensure that organisations listed on the Register are operating according to the requirements for listing and are in alignment with their formal objectives. It is concerning that, as noted above, this apparently does not occur to any significant degree.

Given the substantial and uncapped public subsidy on offer via the Register we submit that it is essential that the public is assured that organisations listed are in compliance with and not deviating from their formal objectives. This assurance should be provided by proactive compliance and enforcement action from government and not be left to third parties to monitor and report potential breaches.

RELEVANT GOVERNANCE ARRANGEMENTS IN INTERNATIONAL JURISDICTIONS, AND EXPLORING METHODS TO ADOPT BEST PRACTICE IN AUSTRALIA

We have no specific comments on governance arrangements in place in international jurisdictions.

However, as discussed throughout this submission we consider that best practice in the Australian context requires transparency and accountability, and positive action from government to ensure that charitable institutions are acting in the public interest.

⁹ Senate Environment and Communications Legislation Committee Budget Estimates Hansard, 25 May 2015

ATTACHMENT 1: CASE STUDIES

APPEA has undertaken a 'desk top' review of the objects and activities of some groups on the Register. The review, using publicly available material, suggests public subsidies intended to support "practical environmental work" are instead being used by activist groups to oppose lawful development and/or support illegal activity.

LOCK THE GATE ALLIANCE

Lock the Gate is listed on the Register though its President is emphatic in stating that "The Lock the Gate Alliance is not an environmental NGO"¹⁰.

Rather than being principally engaged in practical work related to the natural environment, Lock the Gate's President describes "the core of its activities" as being "the refusal of landholders to negotiate access to their properties by resource companies"¹¹. Such an objective is consistent with the purpose of *Stopping the Coal Export Boom*¹² which the President of Lock the Gate was a principal author of and which details a strategy to 'disrupt and delay key projects and infrastructure while gradually eroding public and political support for the industry and continually building the power of the movement to win more.'

In line with the objective of *Stopping the Coal Export Boom*, Lock the Gate is primarily engaged in an anti-development campaign and works through the media, community meetings, email mailing lists and political lobbying. We submit that Lock the Gate aims to generate fear and uncertainty in local communities by presenting misleading information in relation to the health, safety and environmental risks associated with resource development in order to block the lawful development of Australia's resources.

Lock the Gate has advocated for a moratorium on CSG and other unconventional gas production until such time as further research has been done, but at no time has Lock the Gate publicly suggested a methodology for research that it would see as verifying that gas operations should proceed. Lock the Gate states that its core mission is to protect Australia's natural, cultural and agricultural resources from 'inappropriate mining' however it has failed to state what constitutes 'appropriate mining'. When given the opportunity to publicly identify areas that are acceptable for coal seam gas and mining Lock the Gate has refused to do so¹³.

¹⁰ http://www.socialalternatives.com/sites/default/files/pdf/issue/free/vol_31_1_sa.pdf

¹¹ Ibid

¹² http://www.abc.net.au/mediawatch/transcripts/1206_greenpeace.pdf

¹³

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Fcommrep%2F03a1>

Lock the Gate ignores and makes no reference to the clear scientific consensus that any potential risks associated with CSG and unconventional gas production are manageable as has been found by a number of reviews by respected institutions (including, for example, those by the Australian Council of Learned Academies¹⁴, the NSW Chief Scientist¹⁵, and Allan Hawke AC¹⁶).

By undertaking a campaign to frustrate the lawful development of Australia’s natural gas resources, Lock the Gate is acting against the public interest and therefore should not be regarded as a charitable institution or be listed on the Register.

Constitution and formal objects

Lock the Gate has a publicly available constitution which states its formal objects. A comparison of these objects with the requirements for listing on the Register (shown below) indicates that Lock the Gate does not qualify for listing given that the majority of its objects are not principally focussed on the natural environment.

LTG Principal Objects (extract from Constitution ¹⁷)		
Principal purpose		
	Protection and enhancement of the natural environment or of a significant aspect of the natural environment	Provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment
1. To protect and enhance farmland and environmentally sensitive areas and to prevent	No ¹⁸	No

[957b-06b5-4f89-9224-5b1e87bc8f8d%2F0007;query=id%3A%22committees%2Fcommrep%2F03a1957b-06b5-4f89-9224-5b1e87bc8f8d%2F0000%22](https://www.lockthegate.com.au/objects)

¹⁴ <http://www.acola.org.au/PDF/SAF06FINAL/Final%20Report%20Engineering%20Energy%20June%202013.pdf>

¹⁵ <http://www.chiefscientist.nsw.gov.au/coal-seam-gas-review/final-report-september-2014>

¹⁶ <http://www.hydraulicfracturinginquiry.nt.gov.au/index.html>

¹⁷

https://d3n8a8pro7vhmx.cloudfront.net/lockthegate/pages/1460/attachments/original/1423046942/LTGA_Constitutionfinalamended161214.pdf?1423046942

¹⁸ As reflected by the organisation’s name, Lock the Gate’s principle purpose in this regard is the protection of agricultural resources rather than the natural environment.

their degradation as a result of uncontrolled or inappropriate development.		
2. To engage in and promote conservation of native Australian species of flora and fauna;	Yes	No
3. To preserve the viability and productive capacity of Australian farm and grazing lands;	No	No
4. To protect and conserve ground and surface water systems throughout Australia;	Yes	No
5. To educate the Australian community generally as to the impact of uncontrolled development on the natural environment whether that development is as a result of fossil fuel or mineral extraction or the associated activities of such industries (“the mining industry”) or otherwise;	No	No ¹⁹
6. To publicise the need for appropriate environmental regulation of the mining industry;	No	No
7. To act as advocate for members of the Australian public whose properties, livelihoods, or health are adversely affected by the degradation of the natural environment and in particular by the activities of the mining industry in rural, regional and urban areas.	No	No
8. To join with other organisations which share the goals of the company for the purpose of running campaigns.	No	No

¹⁹ Lock the Gate does not seek to ‘educate’ in the terms required by the *Charities Act 2013*. For example, it ignores and makes no reference to the findings of reviews by eminent institutions and refers instead to discredited research.

9. To establish and maintain a Public Fund with the objectives and on the terms and conditions set out in clause 67 ²⁰ and Schedule 6 of the Regulations.	Yes	Yes
10. To protect and conserve those areas of the maritime environment detrimentally affected by the mining industry and its associated activities	Yes	No

²⁰ Actual relevant clause is Clause 70 in the LTG Constitution

Policy objectives

Lock the Gate’s purpose is further illustrated by their stated policy objectives. A comparison between these objectives and the requirements for listing on the Register is shown below.

LTG policy objectives ²¹		
Principal purpose		
	Protection and enhancement of the natural environment or of a significant aspect of the natural environment	Provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment
1. The creation of 'no-go zones' on coal and unconventional gas mining to protect productive agricultural land, national tourism icons, residential dwellings, important water sources, cultural heritage sites and sensitive natural areas.	No	No
2. Comprehensive health impact assessments and the implementation and enforcement of strict, scientifically determined and measurable standards to curtail air, water and soil pollution from coal and unconventional gas mining.	Yes	No
3. Far-reaching reform of legal and administrative constraints on mining to introduce the highest standards of independence, probity and transparency, to empower communities to reject projects, and to provide third party legal rights.	No	No

²¹ http://www.lockthegate.org.au/missions_principles_aims

<p>4. The provision of legal rights to landholders to allow them to prevent exploration and mining for coal and unconventional gas on their properties.</p>	<p>No</p>	<p>No</p>
<p>5. The removal of public subsidies and tax incentives currently available to coal and gas companies for mining and infrastructure development, and improved measures to ensure they pay their fair share in taxes.</p>	<p>No</p>	<p>No</p>
<p>6. Prevention of coal mines and unconventional gas wells, and associated infrastructure including ports, dams and pipelines, that will cause harm to important land, water and cultural resources.</p>	<p>No²²</p>	<p>No</p>
<p>7. Independent and rigorous research into greenhouse gas emissions from coal and unconventional gas mining to make sure they are properly and fully paid for.</p>	<p>No</p>	<p>No</p>
<p>8. A moratorium on unconventional gas mining and exploration until a rigorous research program has been completed into its impacts on human health, water resources and the environment.</p>	<p>No</p>	<p>No</p>

²² As reflected by the organisation's name, Lock the Gate's principle purpose in this regard is the protection of agricultural resources rather than the natural environment.

Activities

A comparison between Lock the Gate’s ‘charitable’ activities for 2014 and the requirements for listing on the Register is provided below.

These activities again reflect Lock the Gate’s focus on preventing and constraining resource development rather than practical work to conserve and protect the environment.

LTG description of charitable activities and outcomes in 2014 ²³		
Principal purpose		
	Protection and enhancement of the natural environment or of a significant aspect of the natural environment	Provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment
1. Research was commissioned during the year on the impacts of proposed coal mining and transport on water resources in the Galilee Basin and the Hunter Valley. This is in keeping with our principal purpose to educate the Australian community about the impact of uncontrolled development on the natural environment.	No	No ²⁴
2. Community monitoring was undertaken of air quality adjoining coal stockpiles and rail lines, to provide an assessment of particle pollution associated with coal storage and transport in order to better educate the Australian community about impacts on the natural environment.	No	Yes

²³ <http://www.acnc.gov.au/AIS2014?ID=5EDA5ACD-0942-42E1-8926-6FE9A5377BB9&noleft=1>

²⁴ There is no ‘uncontrolled’ resource development, the purpose of research into claimed ‘uncontrolled’ resource development is to convince the public that there is such a thing rather than to educate the community.

<p>3. A number of submissions were made to Government processes and major project applications to propose improvements in environmental regulations and to make recommendations for the preservation of the viability and productive capacity of Australian farms and grazing lands and the conservation of fauna and flora.</p>	<p>No</p>	<p>No</p>
<p>4. Freedom of Information requests were lodged to obtain information on matters to enable improved advocacy on improvements in environmental regulation.</p>	<p>No</p>	<p>No</p>
<p>5. Preliminary legal advice was obtained on insurance coverage in the mining industry and how that coverage affects members of the Australian public whose properties, livelihoods, or health are adversely affected by the activities of the mining industry in rural, regional and urban areas.</p>	<p>No</p>	<p>No</p>
<p>6. Information was disseminated widely via the media and social media about the impacts of mining on farmland and environmentally sensitive areas, in keeping wi [sic] (ends here on ACNC declaration)</p>	<p>No</p>	<p>No</p>

Other activities

Promoting illegal activity

Media reports from 25 May 2015²⁵ indicate that the Leard Forest Alliance, which is affiliated with Lock the Gate²⁶, intends to use donations to pay fines for activists. When questioned by the media in relation to this report Lock the Gate's spokesmen 'refused to clarify' whether this was the case.

We submit that using publicly subsidised donations to pay off fines levied on those who break the law amounts to supporting illegal activity. Organisations who are or who have been involved in this practice should be disqualified from being listed on the Register or as a charitable group.

Misleading Parliamentary Inquiries

In 2011, Lock the Gate was forced to admit that key parts of its submissions to state and federal CSG inquiries were factually incorrect²⁷.

In its submissions to both inquiries, Lock the Gate took verbatim references to shale gas in US research documents and substituted the words "coal seam gas" for "shale gas" so as to deliberately misrepresent both the US research and the reality of CSG production in Australia.

The shale gas paper Lock the Gate misrepresented to Parliament has itself since been fundamentally discredited by subsequent research in the United States²⁸, and is inconsistent with

²⁵ <http://www.pressreader.com/australia/the-courier-mail/20150525/281642483764605/TextView>

²⁶ http://www.lockthegate.org.au/leard_forest_action

²⁷ <http://www.miningaustralia.com.au/news/lock-the-gate-alliance-admits-to-misleading-report>

²⁸ See, amongst others, Lawrence M Cathles III, Larry Brown, Milton Taam, Andrew Hunter, *A Commentary on "The Greenhouse-gas footprint of natural gas in shale formations" by R.W. Howarth, R. Santoro, and Anthony Ingraffea*, Cornell University and Electric Software, Inc. (www.cce.cornell.edu/EnergyClimateChange/NaturalGasDev/Documents/PDFs/FINAL%20Short%20Version%2010-4-11.pdf), Nathan Hultman, Dylan Rebois, Michael Scholten and Christopher Ramig, *The greenhouse impact of unconventional gas for electricity generation*, University of Maryland (iopscience.iop.org/1748-9326/6/4/044008/), Mohan Jiang, W Michael Griffin, Chris Hendrickson, Paulina Jaramillo, Jeanne Van Briesen and Aranya Venkatesh, *Life cycle greenhouse gas emissions of Marcellus shale gas*, Carnegie Mellon University (iopscience.iop.org/1748-9326/6/3/034014/fulltext), Francis O'Sullivan and Sergey Paltsev, MIT Energy Initiative, Massachusetts Institute of Technology, *Shale gas production: potential versus actual greenhouse gas emissions*, Environmental Research Letters 7 (2012) 044030, (iopscience.iop.org/1748-9326/7/4/044030/), Timothy J. Skone, P.E., Office of Strategic Energy Analysis and Planning, *Life Cycle Greenhouse Gas Analysis of Natural Gas Extraction & Delivery in the United States*, US Department of Energy (cce.cornell.edu/EnergyClimateChange/NaturalGasDev/Documents/PDFs/SKONE_NG_LC_GHG_Profile_Cornell_12MAY_11_Final.pdf), David T. Allena, Vincent M. Torres, James Thomas, David W. Sullivan, Matthew Harrison, Al Hendler, Scott C. Herndon, Charles E. Kolb, Matthew P. Fraser, A. Daniel Hill, Brian K. Lamb, Jennifer Miskimins, Robert F. Sawyer, and John H. Seinfeld, *Measurements of methane emissions at natural gas production sites in the United States* (www.pnas.org/content/110/44/17768), Michael Levi, *Rebutting the Howarth Shale Gas Study*, Council on Foreign Relations (blogs.cfr.org/levi/2011/05/20/rebutting-the-howarth-shale-gas-study/), Michael Levi, *Some Thoughts on the Howarth Shale Gas Paper*, Council on Foreign Relations (blogs.cfr.org/levi/2011/04/15/some-thoughts-on-the-howarth-shale-gas-paper/), Mary Lashley Barcella, Samantha Gross, Surya Rajan, *Mismeasuring Methane: Estimating Greenhouse Gas Emissions from Upstream Natural Gas Development*, IHS CERA

findings from research in Australia conducted by the CSIRO and the Australian Government Department of the Environment²⁹. Notwithstanding this, Lock the Gate continues to quote from the paper on its website³⁰ suggesting that it does not wish to educate the public, as the Register requires, but prefers to continue to mislead.

Obtaining commercial benefit

Lock the Gate also financially benefits from its campaign against natural gas via sponsorship arrangements associated with its promotion of alternative energy sources. An example is the agreement Lock the Gate has with solar energy firm Sungevity. Under this arrangement for every Lock the Gate supporter who signs up for a Sungevity installation \$250 is donated to the Lock the Gate Alliance³¹.

The direct financial benefit Lock the Gate generates by its opposition to one energy source and the promotion of another raises questions of impartiality. It is also difficult to see how the vilification of Australian companies for financial gain is something that should be subsidised by the taxpayer as a charitable endeavour.

(heartland.org/sites/default/files/Mismeasuring%20Methane.pdf), Navigant, "How Does the Cornell Report Affect Natural Gas Development?", *NGMarket notes* (www.navigant.com/~media/site/downloads/energy/ng_notes_may2011.ashx), David McCabe, *Let's Fix Dangerous, Climate-Warming Methane Leaks From All Fossil Fuels: Coal, Oil, and Natural Gas*, Clean Air Task Force (www.catf.us/blogs/ahead/2011/04/13/lets-fix-dangerous-climate-warming-methane-leaks-from-all-fossil-fuels-coal-oil-and-natural-gas/#more-167), Elaine Prior, *Coal Seam Gas – Discussions with Origin*, Citi Research (ir.citi.com/ZBf5Ax1H8aKb44yFJpYixSWm0lgJCXEi0mCuRUPMFs4%3D) and *Coal Seam Gas & Greenhouse Emissions Comparing Life Cycle Emissions for CSG / LNG vs Coal* (ir.citi.com/hO55KY4wBGXieq%2FSxr2Z1w%2FaRDaAARKMiAacefdK%2BmE%3D)

²⁹ The CSIRO report, *Field Measurements of Fugitive Emissions from Equipment and Well Casings in Australian Coal Seam Gas Production Facilities*, June 2014, is available at www.environment.gov.au/dimate-change/greenhouse-gas-measurement/publications/csg-fugitive-emissions.

³⁰ <http://www.lockthegate.org.au/emissions>

³¹ <http://au.sungevity.org/lock-gate>

Misleading the public

On 3 May 2015 Lock the Gate sought to link coal seam gas production to indigenous heritage protection and, indirectly, the activities of the ISIS terrorist group by tweeting graphic at right.

The article linked by Lock the Gate³² states that “An important Australian heritage site is now in danger from being destroyed by government-sanctioned mining which will be every bit as bad as the ISIS-sponsored vandalism”.

While this would be very concerning, there is in fact no CSG production in Western Australia’s Burrup Peninsula and no mention of CSG in the article. There is in fact no CSG activity in or anywhere near the Burrup peninsula.

Disseminating such misinformation is clearly far removed from the protection and enhancement of the natural environment or the provision of information about the natural environment.



FRIENDS OF THE EARTH

Friends of the Earth (FOE) is an international organisation with an Australian arm and related chapters in each Australian state.

FOE Australia states it is “...is a federation of local activists campaigning across the nation through local active member groups. Many of the national campaigns are hosted by our local groups.”

Constitution and formal objects

FOE Australia does not appear to have a publicly available formal Constitution. Its stated objectives on its website are³³:

1. To conserve, restore and protect the ecosphere.
2. To create a movement of change that recognises ecological sustainability and social justice are indivisible.
3. To preserve the natural environment in Australia;
4. To promote public awareness of environmental issues in Australia, through promoting public awareness, direct action activities and the production of educational and community materials

³² : <http://yournewswire.com/australian-heritage-site-in-danger-from-government-sanctioned-mining/#sthash.AySjS8bd.dpuf>

³³ <http://www.foe.org.au/our-vision>

5. To assist other people and organisations interested in these objectives to carry out their tasks through the maintenance of resource centres, newsletters, magazines and communication with like-minded national and international bodies

FoE Australia’s other priorities include social justice, environmental justice, and indigenous land and rights.

Activities

Though it is difficult to accurately gauge what activities how much funding is spent on which activities as FOE does not detail this in its reporting, FOE’s overall activities are principally focussed on activism to prevent and constrain lawful development of publicly owned resources.

A comparison of the activities detailed in FOE’s 2014 annual report with the requirements of the Register follows.

	Principal purpose	
Friends of the Earth Annual report³⁴		
	Protection and enhancement of the natural environment or of a significant aspect of the natural environment	Provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment
1. A campaign purportedly aimed at protecting the Great Barrier Reef but which according the accompanying description is actually aimed at reducing Queensland’s dependence on the coal industry and coal export expansions.	No	No
2. A campaign called ‘Farmlands not Gasfields’ which is aimed at preventing and constraining legal gas industry development.	No	No

³⁴ http://www.foe.org.au/sites/default/files/FoEA_AR2014_softcopy.pdf

3. A campaign, 'Market Forces', aimed at encouraging financial institutions to divest from the resource industry.	No	No
4. A campaign to continue a discontinued UNESCO program to support communities in the Torres Strait.	No	No
5. A campaign to raise awareness of coal mining in Indonesia.	No	No
6. A campaign to support the uptake of renewable energy.	No	No
7. An 'Anti-nuclear and Clean Energy' campaign.	No	No
8. A campaign to protect river dependent ecosystems in the Murray Darling Basin	Yes	No
9. Playing a 'role in the development of [the Forest Stewardship Council]' in Australia.	Yes	No
10. Lobbying government to prevent the streamlining of Commonwealth environmental approvals.	No	No
11. Producing reports examining chlorine disinfection by-products in drinking water.	No	No
12. Telling the story of indigenous people's traditional use of fire.	No	No
13. A campaign to 'build the national and global response to nanotechnology'.	No	No
14. A project to establish a common area in Melbourne used by craft markets, weddings,	No	No

birthday parties, fund raisers, film nights, training sessions, and sustainability workshops.		
15. Supporting CounterAct in its work to train activists to oppose legal development (further detail on CounterAct is below).	No	No
16. Supporting the establishment of the Safe Food Foundation to promote the awareness of the health, social, economic, and environmental impacts of food production.	No	No

Auspicing

FOE Australia is involved in auspicing where a number of ‘affiliate’ groups appear to gain benefit from FOE’s charitable gift status without being listed on the Register.

FOE affiliates include activist group Quit Coal, which specialises in climbing on objects and then displaying anti-coal banners; CounterAct, which teaches people how to be environmental activists using non-violent direct action (see below), and Market Forces, which is a divestment advocacy organisation.

COUNTERACT

CounterAct is not listed on the Register but seeks donations that it states on its website are tax deductible by virtue of its ‘affiliation’ with Friends of the Earth. Those seeking to donate via CounterAct’s website are taken to a Friends of the Earth donation page³⁵.

Constitution and formal objects

CounterAct does not appear to have a publicly available Constitution or a listing of its formal objects, however CounterAct’s purpose as stated on its website³⁶ is as follows:

“CounterAct provides training in direct action skills, campaigning and community organising across Australia. We aim to increase capacity and skills amongst grassroots activists whilst encouraging a culture of skill sharing, on-training and making activism accessible for everyday folk.”

This object does not meet the eligibility requirements for the Register and, notably, does not mention the environment at all.

³⁵ <https://www.givenow.com.au/foecounteract>

³⁶ <http://counteract.org.au/about/>

Activities

CounterAct's principal activity is to run training camps for environmental activists. These include training in 'Practical skills for advocacy and campaigning', sessions on 'The Future of Civil Disobedience' and 'regular gatherings for campaigners, activists, and organisers to discuss ideas, exchange resources, and discover new approaches to social change'.

CounterAct also publishes and links to a number of 'resources'³⁷. These include guides on 'Police liaison'³⁸ and 'Delia's guide to blockading'³⁹ which advises activists to destroy paperwork that might be 'incriminating if you are arrested' and advises on some of the considerations involved before undertaking 'criminal damage' and 'economic sabotage' stating that such activities are 'a logical extension of trying to cost the firm as much money as possible'.

The development and dissemination of this material is apparently subsidised by the taxpayer despite CounterAct not being listed on the Register.

While individuals and groups are free to undertake activities such as the above they clearly do not meet the requirements of the Register.

Locking farmer's gates from the outside

The tactics promoted by CounterAct featured prominently in a blockade of a lawfully approved drilling program at Bentley in 2014. The Bentley blockade was also promoted by Lock the Gate⁴⁰ which, though it claims to be an organisation that seeks to empower landholders, was in this case supporting the blockade of a farm whose owner welcomed drilling activity.

The protest action included the installation by activists of spikes into the landholder's access road and metal pickets being driven into the road surface⁴¹. The landholder stated at the time "Lock the Gate tell us that they're not interfering with the farmer, but what they don't understand is how an operating farm works."⁴²

It is difficult to see how the blockading lawful development on a private individual's farm relates to the protection and conservation of the natural environment.

³⁷ <http://counteract.org.au/resources/>

³⁸ <http://counteract.org.au/wp-content/uploads/2013/03/police-liaison-Nov-2013-short-version.pdf>

³⁹ Document hosted at <http://occupywallst.org/media/pdf/blockadingforbeginners.pdf> and linked to from <http://counteract.org.au/resources/direct-action/> which states it contains 'great physical tactics'

⁴⁰ For example: <http://www.lockthegate.org.au/2-000-people-at-bentley-to-block-metgasco-drilling>

⁴¹ <http://www.northernstar.com.au/news/anti-csg-protesters-block-access-farmers-property/2187073/>

⁴² <http://www.abc.net.au/news/2014-03-04/gas-land-owner/5296344>

ENVIRONMENTAL DEFENDERS OFFICE

Environmental Defenders Office (EDO) of Australia is a national network of environmental lawyers.

Constitution and formal objects

A comparison of the EDO’s constitution and formal objects with the requirements for listing on the Register is below.

	Principal purpose	
ANEDO Constitution		
	Protection and enhancement of the natural environment or of a significant aspect of the natural environment	Provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment
1. To protect, conserve and enhance the natural environment.	Yes	No
2. To provide a national voice for public interest environmental law in Australia.	No	No
3. To support the work of EDOs, the primary objects of which are to:	No	
a. Arrange and promote the provision of legal assistance, advice, information and services in connection with the conservation, protection, enhancement and/or promotion of the environmental or any part of it.		Yes

<p>b. Promote community education programs in matters relating to environmental law in the legal system.</p> <p>c. Undertake research with a view to ascertaining the needs of the community for legal assistance in environmental law matters and the most effective way of meeting those needs</p> <p>d. Advocate for law reform for the purpose of protecting, conserving and enhancing the environment.</p>	<p>No</p> <p>No</p> <p>No</p>	<p>No</p> <p>No</p> <p>No</p>
<p>4. To raise funds within Australia and internationally to fund the work of EDOs and the association.</p>	<p>No</p>	<p>No</p>
<p>5. To develop the ability of EDOs to function effectively as a national network.</p>	<p>No</p>	<p>No</p>
<p>6. To raise the profile of EODs within Australia and internationally.</p>	<p>No</p>	<p>No</p>
<p>7. To establish and maintain a public fund, to be called the 'ANEDO Gift Fund', for the specific purpose of supporting the environmental objects/purpose of the association. The Fund must comply with the rules set out in Clause 16 below.</p>	<p>Yes</p>	<p>No</p>

Activities

We have not reviewed all of the EDOs in Australia but below provide a comparison of the claimed achievements of EDO NSW in 2013/14 with the requirements for listing on the Register. These achievements appear to indicate that the EDO does no practical work to protect and conserve the natural environment, and its activities in relation to education all relate to education on the law rather than the natural environment.

We also note that, as at 22 May 2015, EDO NSW is soliciting for tax deductible donations for the sole purpose of undertaking litigation to overturn a project approval for a coal mine in NSW⁴³. Such activities would appear to be wholly outside those permitted by the EDO's tax status.

EDO NSW lists seven active court cases on its website including the one mentioned above⁴⁴.

	Principal purpose	
EDO NSW 2013/14 annual report⁴⁵		
	Protection and enhancement of the natural environment or of a significant aspect of the natural environment	Provision of information or education, or the carrying on of research, about the natural environment or a significant aspect of the natural environment
1. Assisting 10 individuals and community groups to defend the environment before the courts.	No	No
2. Making over 40 policy and law reform submissions to the NSW and Australian Governments.	No	No
3. Launching an online tool that provides the latest information on State and Federal Government decisions on the environment.	No	No
4. Providing free telephone advice on environment and planning law.	No	No

⁴³ <https://www.givenow.com.au/edonsw>

⁴⁴ http://www.edonsw.org.au/current_cases

⁴⁵

https://d3n8a8pro7vhm.cloudfront.net/edonsw/pages/1674/attachments/original/1415573074/Annual_Report_Final_Web.pdf?1415573074

5. Holding 21 workshops on environmental planning law, native vegetation, mining and CSG, Aboriginal cultural heritage, and effective engagement in government decision-making processes.	No	No
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