



**SUBMISSION TO THE HOUSE OF REPRESENTATIVES STANDING COMMITTEE
ON THE ENVIRONMENT**

INQUIRY INTO THE REGISTER OF ENVIRONMENTAL ORGANISATIONS

20 May 2015

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ABOUT VOICELESS

As an innovator, capacity builder and ideas-generator, Voiceless plays a leading role in the development of a cutting edge social justice movement, animal protection.

With a highly professional and well-educated team, Voiceless brings together like-minded compassionate Australians from the legal, academic, non-profit and education sectors to form strong and effective networks.

Voiceless believes in the provision of quality information, analysis and resources to inspire debate and discussion and to empower individuals and organisations to generate positive social change.

Voiceless is a non-profit Australian organisation established in May 2004 by father and daughter team Brian and Ondine Sherman.

To build and fortify the animal protection movement, Voiceless:

- gives grants to key projects which create the groundswell for social change;
- cultivates the animal law community through the provision of leadership, educational opportunities and resources; and
- raises awareness of animal protection issues within the education system in order to strengthen democratic skills, promote critical thinking and encourage advocacy amongst students.

PATRONS

J.M. COETZEE, Nobel Prize for Literature Winner 2003, author of 'Lives of Animals' and 'Elizabeth Costello'

BRIAN SHERMAN AM, businessman and philanthropist

DR JANE GOODALL, world-renowned primatologist and animal advocate

THE HON MICHAEL KIRBY AC CMG, former judge of the High Court of Australia

DR CHARLIE TEO, internationally acclaimed neurosurgeon

AMBASSADORS

HUGO WEAVING, Actor: Oranges and Sunshine, Last Ride, Little Fish, Lord of the Rings Trilogy, Matrix Trilogy, The Adventures of Priscilla Queen of the Desert

EMILY BARCLAY, Actor: Prime Mover, Piece of my Heart, Suburban Mayhem, In My Father's Den

ABBIE CORNISH, Actor: w.e., Suckerpunch, Limitless, Bright Star, Stop Loss, Elizabeth: The Golden Age, A Good Year, Somersault, Candy

For further information visit <http://www.voiceless.org.au>

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We thank the House of Representatives Standing Committee on the Environment (the Committee) for inviting public comment on the Inquiry into the Register of Environmental Organisations (the Inquiry).

Voiceless recognises the critical work of environmental organisations in Australia, and opposes any reform or line of inquiry that curtails either the lawful advocacy activities of these groups or their eligibility to receive tax-deductible donations. We argue the latter ultimately impacts upon the ability of environmental groups to effectively pursue their charitable objectives, which in our view, serves a genuine public interest.

Voiceless respectfully submits the following:

1. The terms of reference (TOR) of the Inquiry are unduly broad in scope. Further, Voiceless notes the associated comments by the Committee Chair, stipulated in the accompanying Media Release dated 31 March 2015, which states:

“environmental groups ... access tax-deductible donations to fund important, practical work to improve the natural environment. We need to ensure that tax deductible donations, which are a generous concession from the taxpayer, are used for the purpose intended and expected by the community.”¹

Based on these comments and the broad scope of the TOR, Voiceless highlights the potential for the Inquiry to be used as a pretext to restrict or limit environmental advocacy by threatening the eligibility of environmental organisations to receive deductible gift recipient (DGR) status.

2. The advocacy functions of environmental organisations are central to the successful functioning of a healthy political system and liberal democratic country. The public depends on the work of such advocacy groups to raise awareness about environmental protection matters, and it is often this public engagement which drives legislative and policy-based reform in this area. In this way, environmental organisations provide a useful public service, in relation to an important matter of public interest. Given the Australian Government’s termination of a number of environmental bodies/agencies following the 2014 Budget, environmental NGOs address a significant gap in the environmental protection space.²
3. Notably, section 12(1)(l) of the *Charities Act 2013* (Cth) recognises that an organisation whose purpose is to influence law, policy or practices to advance environmental protection has a charitable purpose. The position is reinforced in *Aid/Watch v Commissioner of Taxation* [2010] HCA 42, where the High Court identified that both the public and the representative government derive benefit from the work of advocacy groups. In addition, it was found there is no general rule in Australia to prevent “political objects” to be included in charitable purposes. On these grounds, advocacy efforts should not prevent environmental organisations from receiving DGR status.

¹ House of Representatives Standing Committee on the Environment, ‘Are eco-charity donations benefiting the environment?’ (Media Release, 31 March 2015) accessible at <http://www.aph.gov.au/Parliamentary_Business/Committees/House/Environment/REO/Media_Releases>.

² Harley Dennett, ‘Budget axe: the small government agencies abolished by Abbott’ (15 December 2014) *The Mandarin* (online) <<http://www.themandarin.com.au/14353-myefo-axed-agency-hit-list/?pgnc=1>>.

4. In order to function effectively, environmental advocacy groups must be well-funded and well-resourced. We argue the continued operation of such groups depends on their ability to receive tax-deductible donations. As a not-for-profit organisation that is ineligible for DGR status, Voiceless understands the advantage provided by DGR status to achieve long-term charitable objectives and to effectively achieve its public service. Accordingly, Voiceless is concerned with any line of inquiry that could jeopardise the DGR status of environmental advocacy groups.
5. Lawful advocacy by environmental groups often involves discussion and criticism of government policy. Accordingly, environmental advocacy groups function most effectively when they are free from undue government influence or pressure. This includes the ability to conduct advocacy activities that are potentially critical of government policy without fear of jeopardising their DGR status. In conducting this Inquiry, it would be prudent for the Committee to acknowledge this important function, and to avoid any potential conflict when considering what constitutes the “practical work” of these environmental organisations (to the extent it may impact on their eligibility to receive DGR status).
6. We draw the Committee’s attention to the constitutionally implied freedom of political communication, which, in lieu of statutory protections, is the principal form of protection for freedom of expression in Australia. In order to avoid any incursion on this freedom, Voiceless submits that the Inquiry should not be used as a pretext to silence environmental advocacy groups that are critical of government policy.
7. Finally, Voiceless wishes to draw attention to a recent petition in which approximately 90,000 people called for the protection of the DGR status of environmental organisations.³

For these reasons, we submit that the Inquiry must not be used as a pretext to restrict or limit the advocacy work of environmental organisations, or otherwise to jeopardise the DGR status of these organisations.

Respectfully submitted by Emmanuel Giuffre, Legal Counsel, and Sarah Margo, Junior Legal Counsel, Voiceless.

³ Pro Bono Australia, ‘Charity Advocacy Petition Gets Attention’, *Pro Bono Australia* (online) 5 May 2015 <<http://www.probonoaustralia.com.au/news/2015/05/charity-advocacy-petition-gets-attention#>>.