



## COURT OF APPEAL OF NEW ZEALAND

16 November 2012

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

***Re Greenpeace New Zealand Incorporated***  
**(CA 333/2011 [2012] NZCA 533)**

### **PRESS SUMMARY**

**This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at Judicial Decisions of Public Interest:**

<http://www.courtsofnz.govt.nz/from/decisions/judgments.html>

The Court of Appeal (Harrison, Stevens and White JJ) has allowed an appeal by Greenpeace against a High Court decision that upheld the decision of the Charities Commission to decline to register Greenpeace as a charity. Greenpeace's application for registration has been referred to the Chief Executive of the Department of Internal Affairs and the Charities Registration Board for reconsideration.

Greenpeace applied for registration as a charity in 2008. In order to be registered as a charity an organisation must be established and maintained exclusively for charitable purposes. Political purposes are not charitable purposes. An organisation may, however, be registered as a charity if it has a

political purpose so long as the political purpose is ancillary to the charitable purposes of the organisation and is not an independent purpose.

The Commission declined to register Greenpeace as a charity because two of Greenpeace's objects, the objects of promoting "peace" and "disarmament" were political, not charitable. Although the Commission held that Greenpeace's other objects were charitable, it found that Greenpeace's political activities in support of those objects were of such a nature and extent that they amounted to an independent, non-charitable, political purpose. Additionally, the Commission found that because Greenpeace was involved in illegal activities, such as trespassing, it was not maintained exclusively for charitable purposes as illegal purposes are not charitable.

Greenpeace appealed the Commission's decision to the High Court. The High Court upheld the Commission's decision with the exception that the Judge made no finding on whether Greenpeace was involved in illegal activities. The Judge was concerned that there was insufficient evidence to conclude that Greenpeace was involved in illegal activities.

Greenpeace then appealed to the Court of Appeal. During the hearing of the appeal, Greenpeace indicated that it would consider making some changes to its objects, namely replacing the object of promoting disarmament with the object of promoting peace and "nuclear disarmament and the elimination of all weapons of mass destruction". It also proposed changing its rules to limit its political advocacy to activities that furthered its charitable objects where such activity is ancillary to those objects.

The Court of Appeal was required to consider, in light of the proposed changes to Greenpeace's rules, whether Greenpeace had charitable purposes. The Court held that the object of promoting peace through nuclear disarmament and the elimination of weapons of mass destruction was a charitable purpose. There was such widespread agreement in New Zealand in favour of the object of the elimination of nuclear weapons and weapons of mass destruction that such an object was not political. The Court also held

that, in light of the proposal to limit Greenpeace's political activities to ancillary activities, Greenpeace's application for registration should be reconsidered. Before the appeal was heard the Charities Commission was disestablished and its functions transferred to the Chief Executive of the Department of Internal Affairs and the Charities Registration Board. The Court therefore directed that Greenpeace's application be reconsidered by the Chief Executive and the Board.

The Chief Executive and the Board will have to decide whether, in light of the proposed amendments to Greenpeace's objects, its political activities are truly ancillary to its charitable purposes. The Board will also have to consider, whether, in light of the amended rules, Greenpeace is involved in illegal activities or likely to be involved in illegal activities in the future.