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**Submission supporting an application for an exemption under the Sex  
Discrimination Act 1984 (Cth) by the Lesbian Action Group**

We refer to the letter from [REDACTED] of 15 August 2023, and to the exemption application and further information supplied by the Lesbian Action Group.

Feminist Legal Clinic Inc. is a community legal service established to advance the human rights of women and girls. We welcome the opportunity to make a submission in support of this application.

This exemption application by the Lesbian Action Group appears to have been drafted without the benefit of legal advice. Section 44(c) of the Commonwealth *Sex Discrimination Act 1984* allows for applications to be made by a person or persons on behalf of a class of persons. In this case the application is made on behalf of lesbian women. Nevertheless, the applicant may benefit from an opportunity to amend and resubmit the application after they have had legal advice and have incorporated as a legal entity.

Had Lesbian Action Group taken legal advice they may also have been advised that an exemption is unnecessary because the proposed activity falls within exceptions set out in the Commonwealth *Sex Discrimination Act 1984* ('the Act'). While the event as planned could potentially attract claims pursuant to sections 5, 5A and 5B of the Act, there are arguably defences available pursuant to sections 7B, 7D, 32 and 39 of the Act.

Unfortunately, past legal decisions, discussed in the application, have created a perception that lesbian women are no longer free to hold events which exclude men as well as women who are not lesbians. Reading the history recounted in the application, we are saddened to learn that lesbian women have been impeded from holding public meetings and events for the past 20 years because of legal action taken by members of the trans community back

in 2003. Unfortunately, we have been unable to locate a copy of the 2003 decision referred to in the application in which a previous exemption was apparently revoked, so we cannot comment on the detail.

The additional information provided by members of the Lesbian Action Group (a voluntary body), describes why it is reasonable and necessary for lesbians to have their own events. Given more time, we could also expand on this with further material. Sadly, special measures are still needed to keep lesbian women safe from male violence and to achieve substantive equality in a society still favouring men and heterosexual women. The applicant has also clarified that they intend this event is to be the first of many, with the intention of reviving activity within the increasingly oppressed and marginalised lesbian community.

This application clearly demonstrates how extreme trans activism has adversely impacted on the rights of women and girls. It is ironic, to say the least, that discrimination legislation originally introduced with the object of implementing the Convention on the Elimination of All Forms of Discrimination Against Women ('CEDAW') is increasingly being used as a weapon against them and leaving them further exposed to male violence, harassment and abuse.

If the protections for gender identity, whether at state or federal level, were interpreted in a manner that did not inappropriately conflate the concepts of sex and gender identity, these conflicts would not arise. Men and women should be free to dress and express their gender identity as they wish, and should not be discriminated against on this account in work, accommodation or the provision of goods and services. However, it is positively harmful to require that an assumed and changeable gender identity should effectively displace biological sex as a protected attribute and render it impossible to maintain spaces, services, opportunities and other special measures designed to protect and advance women's safety and well-being.

In view of these considerations it is essential that this exemption application on behalf of lesbian women should be granted. We would welcome an opportunity to make further more detailed submissions given an extension of time.

Yours faithfully



Anna Kerr  
Principal Solicitor  
Feminist Legal Clinic Inc.  
*Organization in Special Consultative Status with the Economic and Social Council (ECOSOC) since 2023.*