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**Submission to ACNC Enquiry**

**Feb 2018**

**ilc**  
Illawarra Legal Centre Inc

# Illawarra Legal Centre Inc

Established 1985

Providing free legal advice to the public for over 30 years

Provided free legal advice on  
**60,092**  
occasions

By telephone, at our centre and at a range of outreach locations.

Assisted  
**35,574**  
Clients

**541** Amazing Volunteers  
That have given their time, skills and energy to support our work

Conducted

 <b>25,839</b> Information Activities	 <b>2,104</b> Community Legal Education & Law Reform Projects	 <b>5,896</b> Cases Opened
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illawarrallegalcentre.org.au

This Centre is accredited by



## **Who we are:**

The Illawarra Legal Centre is a free Community Legal Centre established in 1985, with extensive experience in providing advocacy services for clients.

We assist approx. 5,000 clients per annum with direct advice, advocacy and casework.

## **Objectives:**

The Centre's statement of purpose is to assist people to realise their legal rights and to promote social justice for people who experience social and economic disadvantage in the Illawarra Region and surrounding areas.

The current objectives of the organisation include that we will:

- Conduct a free, readily accessible legal service.
- Promote the participation in and practice of preventative law.
- Encourage greater sensitivity and responsiveness to the social cultural and linguistic background of the population of the Illawarra.
- Encourage existing legal institutions and law enforcement agencies to more adequately address the needs and interests of users of these services.
- Promote awareness and understanding of legal services and structures and their operation within the Australian legal system.

The ILC's philosophy recognises that those experiencing social and economic disadvantage may also face legal problems that may be linked to their non-legal and financial problems. Consequently:

## **Our current services include:**

- **General Legal Service** covering the Illawarra region.
- **Tenants Service (Illawarra & South Coast Tenants Advice & Advocacy Service)** covering the Illawarra, Wingecaribee and South Coast regions of NSW.
- **Financial Counselling / Credit & Debt Advocacy Service** for the Illawarra, Shellharbour and Kiama regions.
- **Welfare Rights Service** providing advice and advocacy for clients in relation to Centrelink issues for the Illawarra and the South Coast regions.
- **Child Support Service** for the Illawarra region and South Coast, providing advice, assistance and court representation to clients who are main carer parents and have difficulties receiving child support.

## Addressing the Terms of Reference ACNC Enquiry

### 1. Examine the extent to which the objects of the ACNC Acts continue to be relevant.

- The objects of the Acts certainly continue to be relevant. These objects are timeless.
- The additional two objectives anticipated in the ACNC Commissioner's submission are inappropriate and are overreach for the ACNC.

No need to add to these objects.

*Re: Proposed (by ACNC Commissioner's submission) additional objective 1)  
(To promote effective use of resources of not-for-profit entities)<sup>1</sup>*

- Judging what constitutes "effective" use of funds is not for another external body to determine, but is the responsibility of the governing body of the charity/organisation itself.

Assessment of a charity should not be based on the activities of the charity/organisation but on the objects/purposes of the charity/organisation.

- Judging what is "effective" use of funding is up to each charity/organisation and this can vary over time.

For example, if ILC spent resources one year carrying out a comprehensive stakeholder survey this could be judged to be inefficient as it would reduce the resources available for direct service provision. However, the results of the survey could be used to make direct client services more "effective" in the following years.

No-one other than the board of the relevant organisation/charity would or should be in the position to make these decisions.

*Re: Proposed (by ACNC Commissioner's submission) additional objective 2)  
(To enhance the accountability of not-for-profit entities to donors, beneficiaries and the public)<sup>2</sup>*

- This principle is important but it depends on what is required.

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<sup>1</sup> Review of the operation of the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the *Australian Charities and not-for-profits Commission (Consequential and Transitional) Act 2012* (Cth) Submission to the Review from the Australian Charities and Not-for-profits Commission. Recommendation 2 P.4

<sup>2</sup> Ibid.

- Accountability is already covered in S 5-10 para(b) of the Acts.
- Already, statements by politicians, governmental reviews<sup>3</sup> and the submission by the current ACNC Commissioner<sup>4</sup>, lead us to understand that this proposed object, in fact, is intended to be used to require charities/organisations to have limits placed on the proportion of the organisations funds that are used for advocacy.
- Whether a charity spends a particular proportion of their funds on advocacy or all of their funds, should be up to the judgement of the charity/organisation themselves.
- Any further reporting requirements would be onerous for all charities/organisations and would constitute highly ineffective use of resources.

*Re: Importance of Advocacy work*

- Advocacy work of Australian charities ensures the ideals and values of our communities are heard by governmental policy makers.
- Any limits on advocacy activities would run counter to the objects of the ACNC Acts.
- Freedom to advocate is fundamental for a democracy.

Monitoring the activities of organisations and setting any limits on the advocacy activities of any charity/organisation, is strongly opposed by ILC.

**2. Assess the effectiveness of the provisions and the regulatory framework established by the ACNC Acts to achieve the objects.**

The powers currently available in the Acts are seldom used and are adequate.

*Re: Reporting*

- Making information available to the public and making the operation of not for profits transparent is important. ILC supports the current requirements as set out in 40-5.
- The ACNC is not the appropriate body for any further reporting requirements, other than what is currently required (for example outcomes reporting).

<sup>3</sup> Review of the Register of Environmental Organisations, May 2016 Recommendation 5

<sup>4</sup> Submission to the Consultation on Tax deductible Gift Recipient Reform Opportunities by ACNC Specifically Q 12. P.8

Review of the operation of the *Australian Charities and Not-for-profits Commission Act 2012 (Cth) and the Australian Charities and not-for-profits Commission (Consequential and Transitional) Act 2012 (Cth)* Submission to the Review from the Australian Charities and Not-for-profits Commission. 2. Objects of the Act 2.4 P.21 and discussion re Impact Reporting P.48 Recommendation 21

The current requirements for Annual financial reports and Annual information statements are entirely adequate.

**3. Consider whether the powers and functions of the ACNC Commissioner are sufficient to enable these objects to be met.**

The powers and functions of the ACNC Commissioner are sufficient to enable the current objects to be met.

**4. Consider whether any amendments to the ACNC Acts are required to enable the achievement of the objects and to equip the ACNC Commissioner to respond to both known and emerging issues.**

*Re: Conflicts of Interest*

- ACNC governance standard 4 requires that a registered charity must take “reasonable steps” to ensure that responsible persons comply with the duty to disclose perceived or actual conflicts of interest (ACNC Regulation s45.25(2)(e)).

ILC recommends that the ACNC Acts should be amended to set out the steps that should be taken in regard to managing conflicts of interests.

*Re: “encouraging or undertaking illegal acts”*

- Recommendation 6 of the Review of the Register of Environmental Organisations suggested that administrative sanctions be introduced for environmental deductible gift recipients that encourage, support promote, or endorse illegal or unlawful activity undertaken by employees, members, or volunteers of the organisation or by others.

The ILC considers that the current laws of the land adequately cover any such behaviour.