

Confidential**Email and post**

5 April 2016

Ms Kerin Leonard
Project Manager
Access to Justice Review
Department of Justice & Regulation
Level 24, 121 Exhibition Street
Melbourne VIC 3000

accesstojusticereview@justice.vic.gov.au

Dear Ms Leonard

Thank you for the opportunity to make a Submission in response to the Australian Pro Bono Centre's Submission to the Access to Justice (**Submission 28**).

Clayton Utz was the first large Australian law firm to establish an in-house Pro Bono practice and to sign the National Pro Bono Target. Since 1997, our Pro Bono practice has grown to one of the largest and most effective practices in Victoria and across Australia, focusing on low-income and disadvantaged clients and the not-for-profits which support them¹.

Clayton Utz Submission

1. The comments at pages 14 and 15 of Submission 28 regarding the operation and effectiveness of the Victorian Government's Legal Services Panel arrangements (**Panel arrangements**) with respect to Pro Bono do not reflect our experience of Pro Bono practice in Victoria. These comments were extremely unfortunate, and are not supported by Clayton Utz.
2. We do not believe that Submission 28 represents the views or the shared experiences of large Victorian law firms in providing Pro Bono work. We are not aware of any consultation by the Australian Pro Bono Centre with any law firm operating under the Panel arrangements prior to making Submission 28. Certainly Clayton Utz was not consulted by the Centre.
3. The Panel arrangements represent an innovative and incredibly effective response to the challenge of how government as a commercial client can help to build and support a culture of no-cost legal work performed by its legal providers for the benefit of low-income clients and the not-for-profits which support them.
4. Victoria has one of the most well-developed law firm Pro Bono cultures, and a significant part of that culture has been due to the impetus provided since 2002 by the Panel arrangements. Many firms created a formal Pro Bono practice as a direct result of the clear signal from government through the Panel arrangements.
5. None of the work performed by Panel firms should be described as "dishonourable", or as not Pro Bono work. It was extremely unfortunate and inappropriate of the Australian Pro Bono Centre to have done so in Submission 28. The promotion of access to justice should focus on

¹ In July 2015, Clayton Utz became the first law firm outside of the United States to have provided half a million Pro Bono hours. In October 2015, the firm was named for the second time by Who's Who Legal as one of the 10 leading pro bono practices in the world.

the quality of the work performed and the benefit to the client, both of which are enhanced by the Panel arrangements.

6. We support the Panel arrangements regarding Pro Bono. Our reasons include:
- (a) The Panel arrangements represent world's best practice, which have influenced the leading Pro Bono culture in Victoria and driven developments and efficiencies in Pro Bono practice in the legal sector in Australia more generally. The Panel arrangements have been promoted at international conferences, in England, Canada, the United States, Ireland and Hong Kong, as an innovative role which government can play as a purchaser of private legal services to increase the availability of Pro Bono legal services to low-income clients.
 - (b) The Panel arrangements have promoted significant increases in Pro Bono performance levels in Victoria. The comments in Submission 28 that the Panel arrangements are "not conducive to growth in law firm pro bono programs" do not reflect the lived Victorian experience. We do not understand how those comments could be made.

Since their adoption in 2002, the Panel arrangements have been a catalyst for the growth and development of more effective programs, targeted to clients in most need of Pro Bono assistance. We believe that such growth will not and does not occur from the suggested actions in Submission 28 of "speeches, awards, correspondence with the legal professional bodies and media promotion". To be frank, those actions are of little interest to most Pro Bono practices, and are of no incentive to increase the availability of Pro Bono assistance.

In contrast the Panel arrangements provide a real method of increasing and encouraging Pro Bono work. At Clayton Utz, we already average more than 60 hours of Pro Bono work per FTE lawyer in Victoria. Our recent commitment to increase the percentage of the value of our Pro Bono work performed will boost the amount of Pro Bono work we provide in Victoria.

We are happy to appear or provide further details regarding the above if of assistance.

Yours sincerely



David Hillard, Pro Bono Practice Group Leader

+61 2 9353 4800

dhillard@claytonutz.com