



## The economic contribution of Justice Connect's Not-for-profit Law service

Justice Connect Not-for-Profit Law  
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# Glossary

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ABS	Australian Bureau of Statistics
CPD	Continuing professional development
DGR	Deductible gift recipient
FTE	Full-time equivalent
GDP/GSP	Gross domestic product/gross state product
NFP	Not-for-profit community organisation

# Executive summary

Justice Connect's Not-for-profit Law program (NFP Law) fulfils an important role in enabling not-for-profit (NFP) groups to be better run by facilitating access to free and low cost legal support services. NFP Law's services are provided directly by NFP Law or brokered with private legal firms on a pro bono basis. Over the last three years NFP Law has significantly expanded its reach and now supports NFPs Australia-wide, although the majority of NFP Law's services are delivered to NFPs in Victoria and NSW.

Underlining the importance of the program is the fact that many NFPs, especially smaller organisations, face substantial funding and operational constraints and are unable (or have reduced options) to procure legal services at commercial rates. The NFP Law program allows these organisations to secure timely and mission-critical legal advice and education so their capacity to deliver services and operate effectively and efficiently is increased and sustained.

This report is an update of Deloitte Access Economics' 2011 and 2015 studies of the economic contribution of the NFP Law service to reflect the operations of the service in the 2017/18 financial year. It measures the economic contribution of central elements of the work undertaken by NFP Law in supporting Australia's NFP sector and extends earlier analysis to include the economic contribution made by NFP Law's online information and self-help tools.

Two main aspects of the economic contribution are measured.

- First, the direct economic contribution associated with program delivery is measured. This captures the various activities of NFP Law and the value generated by private legal firms providing pro bono services.
- Secondly, the flow-on social benefits made by the program via broader capacity-building in the NFP sector is estimated. This function of 'helping the helper' constitutes the largest element of NFP Law's economic and social contribution, particularly as it operates in a 'non market' environment.

NFP Law's broader policy and law reform advocacy — aimed at improving the regulatory framework for the NFP sector — is not measured in this study. However some case studies in this report highlight the impact of NFP Law's advocacy work.

## Promoting a vibrant and sustainable NFP sector

The NFP Law program is a widely accessible legal support resource for the NFP sector. It has operated in Victoria since 2008 and NSW since late 2013. Over the past three years, NFP Law has broadened its services for NFPs in other states and territories. Notably its free online legal information website now includes resources for all Australian jurisdictions, and its webinars are relevant to and accessed by NFPs across Australia. In consultation with other pro bono clearinghouses across Australia, NFP Law now provides some free legal advice to NFPs on a national basis.

The services offered by NFP Law are used both regularly and on an ad hoc basis by a broad range of NFPs, according to their respective legal advice and capacity-building requirements.

While all NFPs can access NFP Law's website and training, this study groups NFP organisations into four categories:

- organisations supporting people experiencing marginalisation or disadvantage
- organisations encouraging community participation and development;
- organisations protecting the environment and responding to disaster; and
- peak bodies, member-serving and advocacy-based organisations.

While its client base is diverse, support through NFP Law's legal advice services is targeted to NFP organisations addressing issues of social disadvantage.

Consultations with clients of the NFP Law program were undertaken as part of the original study and the findings of these consultations continue to support the methodological assumptions that underpin this analysis. Additional consultations with clients were conducted as part of this study. These consultations provided useful data to support the updated methodology used in this report. The principal objective of discussions with NFP Law clients was to gauge the range and nature of operational impacts generated through the program, and how these ultimately drive flow-on benefits to the community.

Consultations highlighted substantial assistance provided to the NFP sector through the NFP Law program, especially when organisations faced unusual legal issues. Some key themes emerging from those discussions included:

- operational impacts on NFP organisations arising from legal support were wide-ranging;
- without access to the service provided through NFP Law, nearly all assisted NFPs would not have been able to secure necessary legal assistance to support and advance their community activities and deliver services; and
- even when some aspects of the legal advice provided were not acted upon or proved unnecessary because of changed circumstances, stakeholders reported that advice was nevertheless vital in reducing operational risks, canvassing new options and innovations and enabling informed decisions in the best interests of the organisation and its clients.

Overall, clients indicated (and continue to indicate) a high degree of satisfaction with NFP Law's services and overwhelming support for its ongoing role in supporting and building capacity within the NFP sector. NFP Law is seen as making a sustainable and pervasive contribution to the NFP sector — leading to improved social outcomes for the community.

### Measuring the economic contribution

**The economic contribution of NFP Law in 2017/18 is estimated to be up to \$22.4 million, in the high case.** A central scenario was estimated at \$19.5 million, and a conservative estimate was \$16.7 million.

This involves:

- The direct economic contribution of NFP Law, capturing its immediate economic profile and impacts, of approximately \$1.8 million.
- The value of services provided or facilitated by NFP Law in Australia, including in-house legal advice and information, pro-bono referrals, training and online resources, estimated at approximately \$3.2 million. This comprises about \$0.7 million from in-house functions (for example, the provision of training, staff-delivered advice and self-help resources made available through the website) and approximately \$2.5 million from brokering pro bono legal advice.
- The wider social benefits delivered to the community, as a result of efficiency gains to the NFP sector through accessing NFP Law's services, as outlined in further detail below.

Importantly, the reach of NFP Law extends beyond its direct economic contribution. Operational improvements to the NFP sector that flow through to end clients and the wider community are the most substantial contribution of the NFP Law program. This is the 'efficiency dividend' of the program.

**It is estimated that approximately 18,000 additional client service episodes will be provided over the next three years as a result of efficiency gains in NFP organisations assisted by NFP Law in 2017/18.** This includes efficiency gains generated by the online resources maintained by NFP Law, which provides a central hub of information and self-help to a large number of NFP beneficiaries.

Activities undertaken by clients of the NFP Law program are predominantly aimed at providing the community with opportunities and freedoms to lead healthy, productive and meaningful lives. In this context, three channels are considered to capture the broader envelope of social benefits arising from NFP Law:

- benefits to productivity and workforce participation (measured as additional employment on a full-time equivalence basis);
- savings to the justice system (measured via avoided costs); and
- lower social service payments by government (measured on the basis of standard welfare payments).

These social benefits are estimated under three envelope scenarios:

- High case — *prospective* social benefit.
- Central case — *potential* social benefit.
- Low case — *conservative* social benefit.

This scenario approach recognises inherent uncertainties in assessing improvements in service efficiency and impacts on social outcomes over time. Each of the scenarios reflects the actual level of program delivery activities undertaken by NFP Law in 2017/18 and the composition of its NFP client base.

It should be noted that this updated study (and the 2015 study) do not include the value of avoided health care costs, which were valued in the original 2011 study. This means that the estimated figure for 2017/18 is proportionately lower than it would have been had the original methodology from the 2011 report been used. This should be noted when considering the change in the social contribution made by NFP Law over the period of the three studies, as the estimates are not directly comparable.

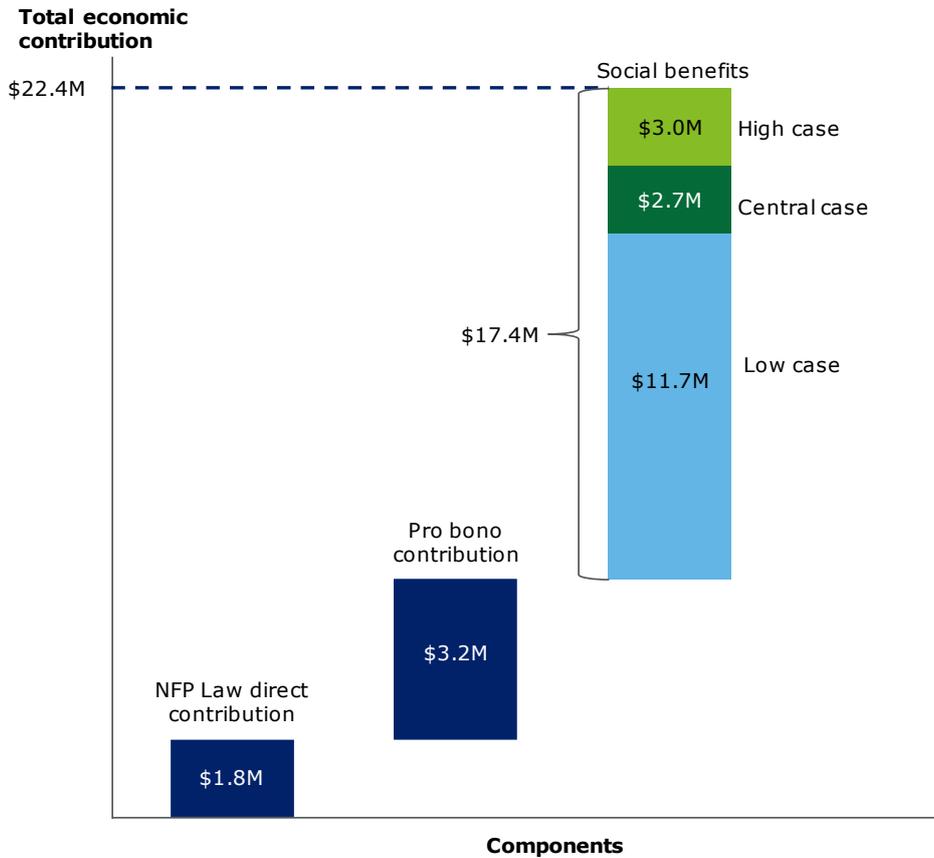
The social benefit of the program could be in the order of \$17.4 million in 2017/18, reflecting the most optimistic (but not unrealistic) case. In comparison, under the central case, the social contribution of the NFP Law service in 2017/18 is estimated to be \$14.4 million<sup>1</sup>.

Most of these estimated social benefits are due to assistance provided to NFP organisations addressing social disadvantage. This reflects two factors: (1) this group of organisations comprises the largest part of NFP Law's client base; and (2) these organisations have a more direct linkage to the social benefits measured in the assessment framework.

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<sup>1</sup> The difference in these cases is the assumed level of 'additionality' in service delivery and how this is translated into concrete social outcomes across the community. The optimistic case assumes both the service efficiency and resultant social impacts are 10% greater.

Figure i: Economic contribution of Justice Connect NFP Law



*Some limitations*

The availability of robust information — especially relating to the longer-term impact of NFP Law services on NFP operations — is a limitation of our study. However, data limitations are not unusual when measuring the effectiveness of various forms of social service delivery and policy formulation.

It should be noted that the social benefit scenarios rely on a high degree of judgment, especially regarding the precise linkages between operational and social outcomes. They are heavily informed by case study evidence collected as part of this study, together with data collected for the previous two studies, and are underpinned by a conservative approach to the analysis.

Further, while the estimates of the social benefits are designed to be wide-ranging, they do not encompass all important social benefits. Many community benefits, such as facilitating greater social inclusion and advancing cultural values are very difficult to quantify.

NFP Law undertook a significant amount of state and national law reform and policy work during 2017/18, including various public submissions. An example of this work is included as a case study in this report. However it has not been possible to estimate the economic value of this work or assess its wider economic implications as part of this study.

Hence the estimates of social benefit are best considered illustrative and representing the scale of potential benefits generated through the NFP Law service.

**Concluding comment**

The NFP Law program is estimated to make a meaningful contribution to the Australian NFP sector and the broader community. Indeed, the program’s positive contribution to the sector was strongly emphasised during consultations.

As noted, the estimated economic contribution is directly related to the actual level of service delivery provided by NFP Law. The service has gradually expanded over its 10 year history, largely underpinned by greater funding investments including through philanthropic grants and multi-year funding from the Victorian and NSW Governments.

Since the last study in 2015, the economic contribution of NFP Law has more than doubled, despite only a modest increase in their direct contribution. The continuing growth in NFP Law's service delivery, including the widespread use of the NFP Law website, which contributes to a substantial component of their economic contribution, indicates there is potential for scale of these benefits given further investment.

**Deloitte Access Economics**

# 1 Introduction

Justice Connect engaged Deloitte Access Economics to evaluate the economic contribution of one of its programs, Not-for-profit Law (NFP Law), a specialist legal service for not-for-profit community organisations (NFPs).

This report is an update of a previous studies conducted of NFP Law (originally called PilchConnect) (see Deloitte Access Economics, 2011 and 2015). It employs the same methodology used in the 2014/15 study, applied to updated data and case studies provided by Justice Connect NFP Law in 2017/18. In addition to this core update, this report extends the scope of the contribution analysis to NFP Law's online legal information and education services (through its website, [www.nfplaw.org.au](http://www.nfplaw.org.au)), and aspects of its phone/online enquiry service, in comparison to previous measurements.

Justice Connect is Australia's largest pro bono legal relationship broker. Justice Connect delivers access to justice by combining its in-house legal and policy expertise with the pro bono resources of its member law firms and barristers to deliver free legal help to vulnerable people and NFP organisations. An accredited community legal centre and registered charity, Justice Connect was formed by the merger of the Public Interest Law Clearing House (Vic) (PILCH Vic) and the Public Interest Law Clearing House Inc (NSW) (PILCH NSW) in 2013. Each of these organisations had over 20 years' experience in addressing unmet legal need through facilitation of pro bono services on a state basis.

NFP Law was established in 2008 by PILCH Vic to formalise and better coordinate the pro bono services that had been provided to NFPs for many years, and to expand its sector capacity-building and law reform work in this area. It was known as PilchConnect until November 2013. Its services were extended to NSW following the merger with PILCH NSW in 2013. The program currently focuses most on supporting NFPs located or operating in Victoria and NSW, however since 2016 NFP has been expanding its services nationally with the support of a multi-year philanthropic grant. NFPs in all Australian jurisdictions now access NFP Law's services, most notably its free online legal information and low cost webinars.

Since its establishment, NFP Law has helped hundreds of thousands of NFPs with legal, regulatory and governance issues through an integrated service design. While NFP Law's legal educational services are available to all NFPs (e.g online resources, webinars, email updates), the program focuses on assisting 'public interest NFPs' – organisations with limited resources that provide services to people experiencing marginalisation or disadvantage, especially in regional and rural areas. Pro bono legal advice through NFP Law is generally limited to such organisations.

By providing free legal advice, information and low-cost training to NFPs and by undertaking law reform activities aimed at improving the legal framework within which the sector operates, NFP Law 'helps the helpers' and enables them to be better governed, more effective, more strategic and sustainable organisations. This in turn maximises their economic and social contribution to civil society.

This report evaluates the economic contribution of NFP Law, using a measurement framework developed specifically for the study of the service in 2011 (see Access Economics, 2011 and Deloitte Access Economics, 2011) which was then updated in 2014/15. The original 2011 measurement framework was reviewed and broadly endorsed by a number of external stakeholders, including the Victorian Treasury and parties with expert knowledge in social enterprise evaluations.

The relevance and robustness of this measurement framework was re-evaluated in the context of this updated report and found to be appropriate in NFP Law's updated context, with some minor revisions outlined in this report.

Designing a robust and practical framework for this project was important, given the measurement challenges faced in quantifying NFP Law's various service delivery activities and their broader impacts:

- Since NFP Law operates in a 'non-market' environment — that is, its services are offered free of charge (or at very low cost) to consumers — the standard economic contribution methodology is unlikely to capture the full economic value of NFP Law's activities.
- As NFP Law essentially 'helps the helper', the social benefits which flow from more efficiently operated NFPs are effectively one step removed, making measurement a more indirect proposition. Crucially, it is these spill over benefits which comprise the more significant part of NFP Law's economic contribution.

The economic contribution relates to legal services provided by NFP Law — the facilitation of pro bono legal assistance, telephone or email advice, training and online legal information and self-help tools. NFP Law's policy and law reform work, aimed at improving the regulatory framework for the NFP sector, is not measured.

The report commences with an analysis of NFP Law's operational profile, including an overview of its client base, service delivery activities and attendant flow-on impacts. The measurement framework which underpins the economic contribution analysis is then outlined. Finally, NFP Law's economic contribution is presented, with assumptions clearly stipulated and supporting information provided.

## 2 Operational profile

To provide context for the economic contribution analysis, this section highlights NFP Law’s operational profile, including its not-for-profit client base and program service offerings. It also sets out the broad dimensions of the economic impacts generated by capacity-building in the NFP sector, both directly and over the longer term.

### 2.1 NFP Law’s client base

NFP Law’s client base comprises a variety of not-for-profits (NFPs) from all parts of the community sector, with the types of activities undertaken by these groups ranging from social services to culture and recreation.

NFP Law engages with NFPs in a variety of ways. Indeed, not all the NFPs advised by NFP Law are “clients” of the organisation in a formal sense. NFP Law’s online information is freely available to all NFPs in Australia and is accessed by an extremely wide range of users. Training participants range from local community service organisations to large NFPs and peak bodies to sporting clubs. The primary focus of NFP Law’s legal advice work is currently on NFPs that are located or operating throughout Victoria and New South Wales — in metropolitan, regional and rural areas — and these organisations vary in size from small, volunteer-run groups to larger NFPs with paid staff.

For the NFPs that receive formal legal advice through NFP Law, the common thread is that NFP Law’s clients are public interest NFPs that are typically unable (or have substantially reduced capacity) to afford paid legal advice. In addition, clients tend to be groups confronting legal issues that raise matters of broad public interest or disproportionately affect disadvantaged or marginalised people. A breakdown of NFP Law’s clients is included in Table 2.1 below and a further overview of the type of clients that received legal advice through NFP Law in 2017/18 is provided in Table 2.2. A breakdown of the type of legal matters is provided at Appendix D.

Table 2.1: Overview of NFPs individually advised by NFP Law, by client category and jurisdiction

Category of NFP assisted	Total
Supporting people experiencing marginalisation or disadvantage	698
Encouraging community participation & development	309
Protecting the environment & responding to disaster	129
Peak bodies, member-serving & advocacy-based	120
Unknown*	281
<b>Total</b>	<b>1537</b>

Source: Justice Connect NFP Law

\*Unknown includes Livechat service piloted in 2017-8. 30 services provided, not available by NFP organisational class.

Note: This table only includes clients who received individual legal assistance, either via phone/email advice (including detailed information/specific resource links and Livechat service) or via brokerage of pro bono assistance from law firms, barristers and corporates.

Table 2.2: Overview of NFPs individually advised by NFP Law, 2017/18

Characteristic	Number of NFPs advised (2017/18)
<b>Location of NFP operations by region</b>	
Metro	570
Regional	259
State-wide	42
National	117
International	54
Unknown	465

Source: Justice Connect NFP Law

\*Types of legal assistance have been consolidated in the contribution analysis

Note: This table only includes clients who received individual legal assistance, either via phone/email advice (including detailed information/specific resource links) or via brokerage of pro bono assistance from law firms, barristers and corporates.

Note: Clients are categorised into regions on the basis of where their operations are targeted (i.e. the beneficiaries of their NFP services).

#### **Box 1: The main categories of organisations receiving free legal advice from NFP Law**

- **Supporting people experiencing marginalisation and disadvantage** — Organisations supporting people experiencing marginalisation or disadvantage - e.g. disability support groups, migrant resource centres, community legal centres, international aid organisations.
- **Encouraging community participation & development** — Organisations encouraging community participation and development - e.g. neighbourhood houses, adult education centres, cultural organisations, youth organisations, community broadcasters, sporting groups.
- **Protecting the environment & responding to disaster** — Organisations protecting the environment and responding to disaster - e.g. climate change groups, animal shelters, environmental action groups, bushfire affected community renewal projects.
- **Peak bodies, member-serving & advocacy-based** — Peak bodies, member-serving groups and advocacy organisations - e.g. organisations focused on policy and law reform, residential action groups.

## **2.2 Service offerings**

NFP Law provides a range of services aimed at strengthening the operational capacity of the NFP sector. This encompasses both direct assistance to individual NFPs and broader advocacy, “self-help” and training services across the sector (see Box 2).

## Box 2: The main types of NFP Law's activities

- **Pro bono legal assistance** — This involves the matching and referral of eligible NFPs for legal advice from lawyers at participating law firms, barristers or corporates. Eligible NFPs are generally public interest NFPs (i.e. helping marginalised and disadvantaged people) with more complex legal issues.
- **Telephone/email advice service** — This service involves the provision of advice to NFPs by NFP Law lawyers. It is a call-back service for eligible NFPs with straightforward queries that are suitable to be dealt with over the phone or email (often both). Where relevant, NFPs may be referred to specific information and self-help resources, such as the NFP Law website (see below) or other service providers.
- **Training** — A variety of legal training for NFPs in metropolitan and regional areas, delivered face-to-face and via webinar, and training for lawyers to build capacity in the sector and legal profession regarding NFP-specific issues. NFP Law operates a social enterprise, NFP Law Training, which offers customised training on a fee-paying basis, with the aim to extend NFP Law's impact while also recuperating some of the costs of providing free or low cost services.
- **Online information resources** — NFP Law maintains a publicly available website containing a broad range of tailored legal information resources for NFPs – both written and multimedia. This information is structured in a way that is relevant to the life-cycle of an NFP – ranging from information specific to setting up a NFP to information applicable to well-established organisations. The site contains two interactive 'applications' designed to mimic a conversation with a lawyer, providing users with a bespoke information package tailored to their responses. Legal email updates are also sent to subscribers alerting them to new resources or changes to relevant laws. NFP Law maintains a strong social media presence, disseminating information through platforms such as Twitter.
- **Sector advocacy work** — NFP Law makes formal submissions to federal and state inquiries and reviews. It also participates in various law reform committees and groups, and undertakes research on sector-wide issues, such as regulatory compliance challenges.

In terms of its specialised assistance, NFP Law operates a triage model of service delivery in which minor NFP enquiries are resolved directly in-house by NFP Law, with more complex matters referred for expert pro bono assistance as needed as shown in Figure 2.1.

The types of assistance provided to clients is summarised in Table 2.3. This table shows how NFP Law has grown in terms of the amount of legal referrals and advice provided to NFP clients. Since 2010/11 (when NFP Law – then PilchConnect – operated only in Victoria) the number of pro bono legal referrals has more than doubled to 189 in 2017/18, while the number of telephone/email advice services more than tripled to 1348. The estimated value of referrals has also increased significantly since the 2011 study based on a more comprehensive survey sample of referral cases completed by member law firms.

Figure 2.1 NFP Law service delivery model

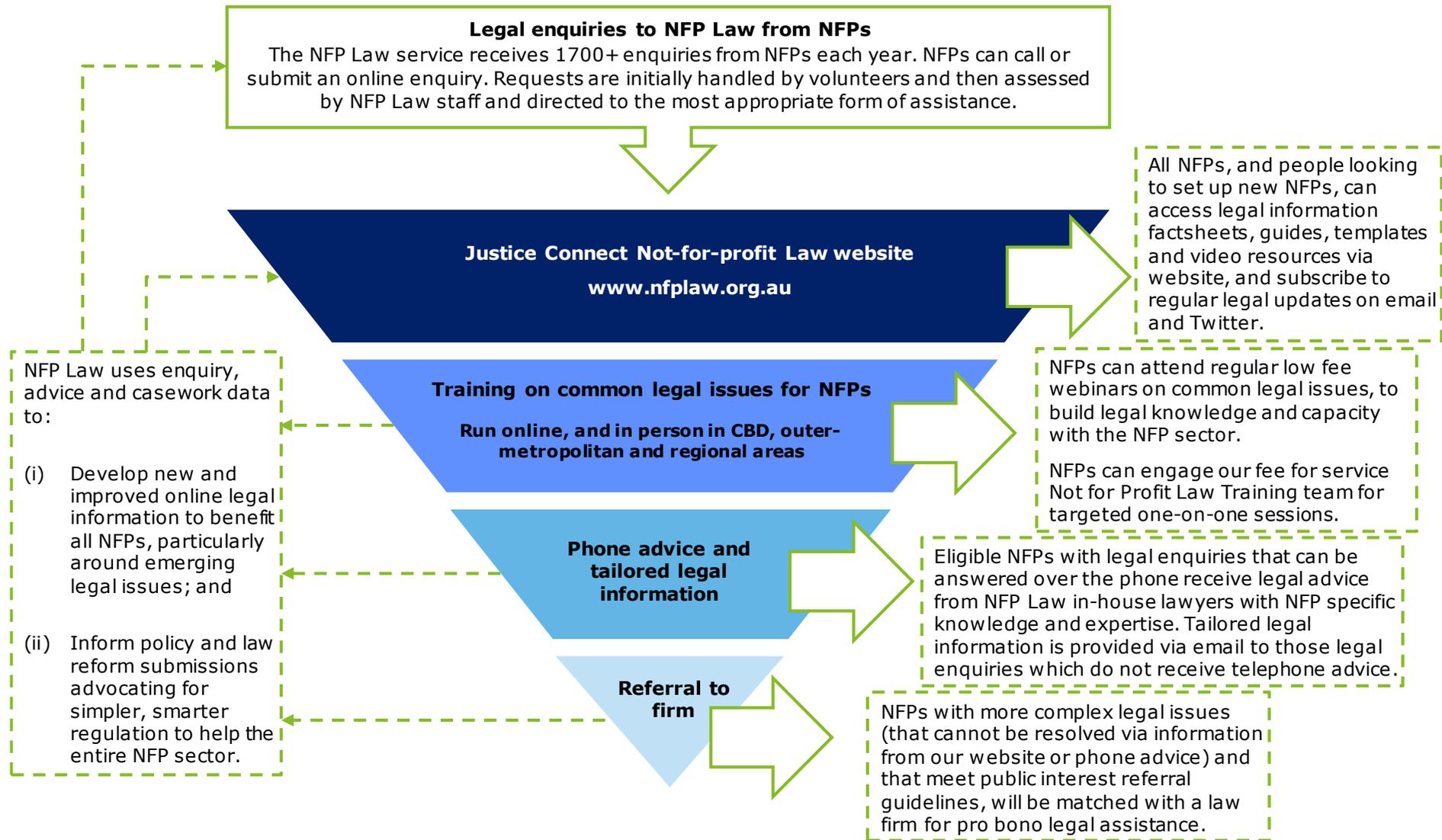


Table 2.3: Overview of assistance provided to NFP Law clients, 2010/11, 2014/15 and 2017/18

Type and detail of assistance	2010/11	2014/15	2017/18
<b>Pro bono legal referrals</b>			
Total referrals	81	168	189
Average pro bono lawyer hours	19 hours (sample of 9)	26 hours (sample of 61)	30 hours (sample of 119)
Average financial value	\$6,742 (sample of 10)	\$12,127 <sup>†</sup>	\$13,326 <sup>††</sup>
<b>Telephone/email advice service</b>			
Total services delivered	361	937	1348
Legal advices	n/a	510	417
Tailored legal information	n/a	427	931
<b>Training - NFP Law delivered *</b>			
In-person Sessions	n/a	60	91
In-person participants	n/a	1855	1905
Webinar Sessions	n/a	7	22
Webinar Participants	n/a	183	777
Seminar Sessions	10	13	n/a
Seminar Participants	433	405	n/a
<b>NFP Law website</b>			
Sessions	n/a	70,997	180,561
Unique Page views	n/a	130,504	342,870
Page views		189,672	459,082
Number of resources produced	14	57	102
Number of resources available	n/a	144	322
<b>NFP Law web apps</b>			
Number of uses	n/a	n/a	13,500
<b>Monthly email update</b>			
Number of subscribers	1,901	4,899	11,956

Source: Justice Connect

\* Usually delivered by member firm lawyers, at venues in the CBD. \*\* Usually delivered by a NFP Law lawyer, at venues in metropolitan, outer-metro and regional areas, or by webinar, and includes training at sector conferences and capacity building events.

<sup>†</sup>Based on average hourly pro bono lawyer rate of \$467.29, this estimated rate is based on average fees from closure reports provided by pro bono lawyers from 2012/13 to 2014/15, adjusted for inflation. <sup>††</sup>Based on the average value of a referral from closure reports provided by pro bono lawyers from 2017/18.

In addition to the growth in the number of clients individually assisted by NFP Law, there has been a significant increase in the number of people accessing NFP Law’s online information and self-help tools, with the number of resources available to assist NFPs growing to 322 in 2017/18.

This website contains a large number of resources which NFPs can access, supporting them in developing a number of legal and administrative aspects of their operations. An effective way of counting the number of times this information is accessed by users of the website is by considering the number of unique sessions. A session is a collection of interactions between a user and the website in a given period. It can generally be assumed that a user session represents a case of an individual accessing the necessary information they were seeking.

On average the NFP Law website recorded 180,561 unique sessions in 2017/2018. The page with the most unique views (excluding the home page) was the governance information page, followed by the constitution information page, as shown in Table 2.4.

Table 2.4: Top 20 website resource pages by number of page exits

<b>Rank</b>	<b>Page</b>	<b>Exits</b>	<b>Page views</b>	<b>% Exit on page</b>
1	/governance	9042	16,440	55%
2	/constitution	6498	12,496	52%
3	/legal structure	5371	11,936	45%
4	/volunteers	5137	9,012	57%
5	/fundraising	4355	8,375	52%
6	/setting up	4113	8,752	47%
7	/before you start	3880	8,622	45%
8	/getting started	2500	8,621	29%
9	/legal-advice	1683	7,651	22%
10	/auspicing	4104	6,218	66%
11	/running the org	549	5,490	10%
12	/incorporation decision	2144	5,795	37%
13	/MOU	3257	5,254	62%
14	/social enterprise	2958	5,477	54%
15	/meetings	2563	5,025	51%
16	/record keeping	2521	5,041	50%
17	/who runs	2116	4,810	44%
18	/fringe benefits	3309	4,660	71%
19	/subscribe	315	4,494	7%
20	/training	409	3,722	11%
<b>Total</b>		<b>66,824</b>	<b>147,891</b>	<b>43% (average)</b>

Source: Justice Connect

### 2.3 Direct outcomes

NFP Law aims to build a more sustainable NFP sector by enhancing the sector's capacity and efficiency. This is achieved through the provision of legal services to NFPs, with the aim of:

- reducing commercial and legal risks for NFPs, including through longer term capacity, enabling legal support as well as addressing more immediate legal issues;
- improving the capacity of NFPs to attract external sources of funding, including from government programs and private donors (e.g. through deductible gift recipient (DGR) funds and social impact investment);
- facilitating reallocation of NFP resources to service delivery and away from administration;
- improving the ability of NFPs to attract and retain volunteer and paid staff, including Board and Committee members; and
- supporting ongoing innovation and sustainability in the NFP sector, including use of social enterprise models.

While such outcomes can improve the viability and effectiveness of NFPs, it is important to note these benefits are not all 'additional' on account of NFP Law. In other words, NFPs would still enjoy at least some of these benefits even if NFP Law did not exist. For example, the legal profession would continue to offer a certain level of pro bono services to NFPs — because of strong traditions in the legal profession or to meet requirements imposed by governments and various corporate panels.

Nevertheless, a significant proportion of the benefits are likely to be additional, largely due to the nature of the NFP Law service delivery and matching model.

On the **supply side**, NFP Law helps harness latent suppliers of pro bono legal support through its industry profile and by offering an efficient matching service for NFPs and law firms. NFP Law's program makes it easier for law firms, barristers and corporates to undertake pro bono work within the NFP sector. This plays a particularly important role with smaller and medium-sized law firms and corporates, which typically have less established processes and structures for pro bono work.

Even for large law firms that would undertake pro bono work regardless of NFP Law's existence, there are potentially important incremental advantages. These can involve, for instance, time savings and other efficiencies for firms' pro bono coordinators through NFP Law's triage and matching process and by directing NFPs to self-help via the website to build their legal literacy, providing telephone advice or directing them to upcoming training, rather than contacting firms directly. NFP Law also helps by distilling the key, most urgent issue, often from a range of legal and non-legal concerns.

There may also be compositional effects on how pro bono services are provided through NFP Law, compared with how these services would otherwise be delivered. There are indications that law firms are more likely to offer pro bono assistance to a smaller group of larger NFPs (which often have greater capacity to pay for these services) rather than a larger groups of smaller NFPs when NFP Law is not involved.

In this sense NFP Law better assists small NFP organisations identify key legal and regulatory issues that they wouldn't otherwise identify, due to their small scale. This is in contrast to larger NFPs which generally have greater resources that enable them to better access in-house or external legal advice (i.e. in the market).

On the **demand side**, NFP Law effectively helps lower the search costs for NFPs in need of legal assistance due to its profile and linkages within the sector. NFP Law's ability to direct queries to the most appropriate avenue for resolution also means that NFPs receive effective and timely service. For small or regional-based NFPs, which are generally less able to access affordable and appropriate legal support, the additional benefits provided by NFP Law are more pronounced.

## 2.4 Longer-term impacts

In addition to direct legal assistance, NFP Law's activities generate a range of longer-term impacts for clients, across the NFP sector and more broadly. Key flow-on impacts and beneficiaries are described below.

**Clients and beneficiaries of NFPs** — The enhancement of a NFP's activities will ultimately benefit its clients through increased or more effective service provision — indeed, this is the central objective of NFP Law. For example, a migrant resource centre that provides settlement and family services may be able to assist a greater number of new migrants. For NFPs with acute sustainability pressures, service enhancement can have broader dimensions and involve the continued operation of the NFP itself rather than more narrow efficiency benefits.

**Government** — By boosting the capacity of the NFP sector to provide community services, the demand on government to provide these services is reduced. Further, where government already contracts social services to the NFP sector, these might be undertaken in a more cost-effective manner. This can increase the sector's overall capacity to undertake work out-sourced by governments, especially in rural and remote areas. In this regard, NFPs can often provide certain social services more efficiently than government, as they have greater flexibility and can more easily direct resources to areas of greatest need, and also harness volunteer resources. NFP Law's work building the capacity of and compliance in the NFP sector also reduces the enforcement burden for sector regulators.

**Law firms/in-house counsel** — By providing pro bono services through NFP Law, law firms and their personnel can secure some key branding and human capital advantages. At a commercial level, participation in the structured program can provide some reputational advantages and enhance a firm's ability to attract and retain staff. It can also reduce the costs for law firms of meeting mandatory legal panel requirements imposed by government and some major corporations. By building the capacity and professionalism of NFPs, NFP Law helps organisations to become 'model clients' for firms (eg responding to requests for further information in a timely way, or building NFPs' capacity to be able to better engage in discussions about legal issues with lawyers) and also increases the likelihood of these organisations eventually becoming paying legal clients.

Legal professionals also gain knowledge and skill in legal issues specific to NFPs, and their relationship to other legal issues, thereby building human capital. This is particularly important given that the limited (although growing) number of legal professionals who specialise in charity/NFP legal issues currently presents a barrier for NFPs seeking high quality legal services for NFPs – even those in a position to pay for that advice.

**Broader community** — Spill over benefits generated by NFPs include enhanced social inclusion and cohesion (including through increased volunteerism). These benefits have wider economic implications such as increased workforce participation and productivity, and lower health and welfare expenditures. Such impacts generate fiscal benefits for government (and taxpayers) and are a key area of reform focus, including through the Council of Australian Governments.

**NFP sector** — Much of NFP Law's advocacy attention is directed towards improving the regulatory framework applying to NFPs. Advocacy which actively contributes to socially beneficial policy or regulatory change represents a real economic contribution. For example, successful advocacy on errors in legislative drafting for incorporated associations can ultimately generate a range of administrative and compliance savings for NFPs and relevant agencies. A key example of the manner of this contribution is included in Appendix E of this report.

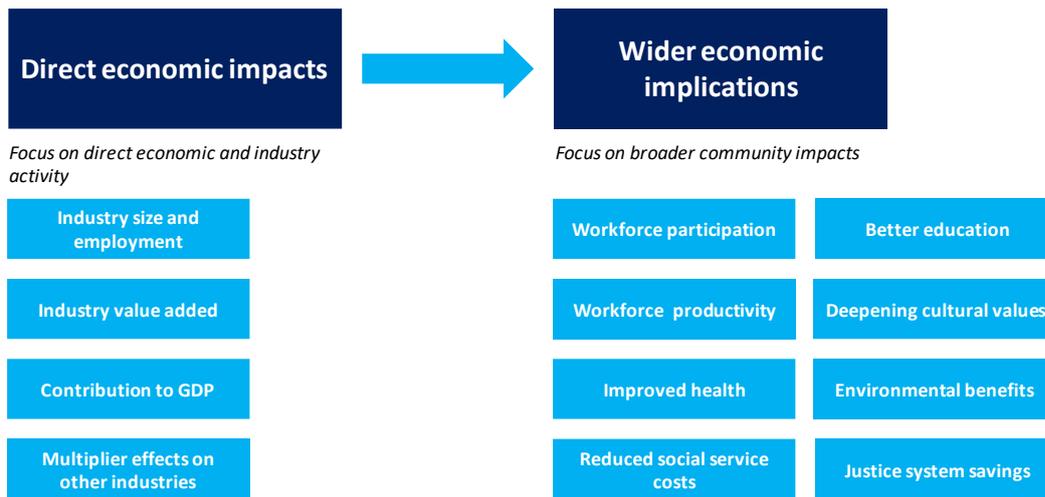
## 2.5 Determining wider economic implications

Flow-on benefits to the economy and society, as a result of increased capacity in the NFP sector, constitute an important aspect of NFP Law's overall contribution. Consideration of these benefits is crucial as these impacts represent the largest part of NFP Law's total economic contribution.

NFP Law's role in 'helping the helper' facilitates wider economic and social benefits resulting from contributions made by NFP organisations. The NFP sector is incredibly diverse, hence so are the

services provided by NFP organisations and the wider economic benefits that these services help to generate. A number of potential flow-on benefits arising from the activities of NFP organisations have been identified in Figure 2.2 and these are outlined in further detail below. Case studies of NFP Law’s clients are also provided in relation to some of these wider economic implications in Appendix A and B of this report. These case studies highlight the nature of activities undertaken by these NFP clients and the type of legal assistance received through NFP Law.

Figure 2.2: General economic and social benefit framework



Source: Deloitte Access Economics

There is likely to be significant cross-over between a number of these wider economic impacts. For example, where better education is an expected outcome, this is likely to also lead to improved workforce productivity. Similarly, improved health may help to increase workforce participation — in turn, increased workforce participation may reduce social service costs, and so on.

It is important to note that these wider economic implications are unlikely to occur in isolation and that many benefits overlap. In such cases, it is important to avoid double-counting of related outcomes. The below sections describes the nature of these wider economic implications drawing on findings from case studies undertaken as part of this study and also drawing on learnings from the previous economic contribution studies conducted for NFP Law (see Deloitte Access Economics, 2011, and Deloitte Access Economics, 2015). These case studies are included Appendix A and B of this report.

### 2.5.1 Workforce participation

Increased workforce participation is an important flow-on impact arising from the provision of services by NFP organisations that influence human capital development or support people who are otherwise unable to participate in the workforce. This may include direct efforts targeting human capital development; such as through education initiatives, teaching of skills to different groups or, perhaps, helping those who are marginalised or disadvantaged to gain stability and confidence. Ultimately, such efforts to increase human capital should lead to greater workforce participation.

Alternatively, organisations may influence workforce participation in an indirect manner. For example, a number of organisations that have sought assistance from NFP Law provide support for people who are carers for their family members. Such support may allow informal carers to move back to, or increase their time spent at, work. For example, clients of Justice Connect NFP Law, Palliative Care Victoria and the Cerebral Palsy Support Network, both work to support carers in this way, and are discussed in B of this report.

### 2.5.2 Workforce productivity

Many NFP organisations will contribute to improved workforce productivity outcomes, in a similar fashion to their potential impact on workforce participation (as described above). Initiatives that help to

build human capital should lead to broader impacts on productivity. Initiatives targeting the development of human capital can capture a broad array of services; particularly those aimed at improving health outcomes, education or skills development.

### **2.5.3 Improved health**

A number of NFP organisations work to improve health outcomes through the direct provision of services or through education that increases awareness of certain health issues. Where health services are provided by NFPs, there is a clear and direct link to improved health outcomes for those receiving treatment. Many NFPs also provide education and information regarding health-related issues, which may encourage people to alter risky health behaviour, or to seek appropriate medical advice. Less directly, certain organisations may advocate on behalf of particular health-related issues, leading to changes in government policy that facilitate improved health outcomes.

### **2.5.4 Reduced social service costs**

Reduced social service costs are likely to result from increased capacity or efficiency of NFP organisations that provide services funded by the government or from organisations that help build capacity of individuals from disadvantaged backgrounds or organisations that provide complementary services that are not funded by the government, thereby reducing their need to draw on social services in the future. As a number of NFPs provide services funded by the government, any increase in their efficiency or capacity may lead to more cost-effective service delivery, thereby reducing social service costs. At the other end of the spectrum, services that support people who are marginalised or disadvantaged may help reduce the extent that these individuals must rely on social services in the first instance. Further, organisations focussed on supporting communities may prevent marginalisation or disadvantage in the first place (eg the community building work of community houses). This all helps to reduce social services costs over the long-term.

For example, NFP Law assisted the West Wyalong Local Aboriginal Land Council (WWLALC) with a non-claimant application for a decision of native title. In receiving the land claim, WWLALC were able to sell the land and produce an income stream to develop other parcels of land. They currently have four new social housing developments which will benefit the community in the long term and boost the local economy. A greater availability of housing provides assistance to local families, and enables them to become self-sustaining in the long term. This is outlined further in Appendix A, along with a number of other current case studies outlining NFP Law's assistance to community organisations.

### **2.5.5 Better education**

Different NFP organisations may facilitate better education outcomes in different ways. Some organisations may work directly with people in the provision of education services or skills development. Other organisations may facilitate improved education outcomes for disadvantaged or marginalised groups by working with them to gain the life skills that allows the future pursuit of a formal education, for example through the provision of stable accommodation, case management or improved English language skills. In some cases, NFP organisations may help students from disadvantaged backgrounds to continue their education by providing support financially or in a mentoring, tutoring or counselling role.

### **2.5.6 Deepening cultural values**

NFP organisations that work with particular cultural groups help to form a sense of community and identity, and also to educate broader society about Australia's diverse cultural values. This work may take a variety of forms, ranging from support to recently settled refugee communities, to social groups and artistic endeavours.

### **2.5.7 Environmental benefits**

Environmental benefits may arise from the work of NFP organisations targeting improved environmental outcomes. This may be achieved through the provision of education and information about actions that benefit the environment (e.g. land management) or about taking action to prevent or reduce environmental damage (e.g. saving energy or reducing waste). Other organisations may work directly with volunteers in the community to undertake activities that improve environmental outcomes (e.g. clearing waste from natural environments, planting trees etc).

### **2.5.8 Justice system savings**

NFP organisations that work with people who may be at risk of breaking the law may generate flow-on impacts resulting in savings to the justice system. In the case of some NFPs, support may be provided to individuals at risk of criminal behaviour, effectively helping to prevent future arrests or incarceration. Not only does this have tremendous benefits for the individual in question, it also represents a significant saving to the broader community in terms of the potential legal and justice system costs avoided.

# 3 The measurement framework

This section sets out the framework for measuring the economic contribution of NFP Law, recognising some of the measurement challenges presented by NFP Law's operational profile. The measurement framework is regarded as systematically capturing, albeit at a high-level, the value of NFP Law's activities, outcomes and longer-term impacts.

To ensure the economic contribution analysis is both robust and credible, several key principles have informed the development of the measurement framework.

- **Conservatism** — Taking a conservative approach to the analysis, and the myriad of judgements required along the way, is integral to building a plausible and dispassionate analysis.
- **Transparency** — It is crucial that the basis for analytical inputs, decisions and conclusions are properly explained and documented. This enables more robust scrutiny of the analysis by other (independent) parties, in turn facilitating more informed debate and continual improvements over time.
- **Flexibility** — By developing a flexible framework for measuring the economic contribution, additional future data can be incorporated as they become available. The framework can also be used as the foundation for future analyses, allowing NFP Law to track its contribution over time (as it is with this report)

This updated report utilises the same methodology and assumptions outlined in the previous 2015 study of NFP Law's economic and social contribution. Where appropriate, the data sources and assumptions that underpin the analysis have been updated to reflect the most contemporary evidence available. This reflects the fact that the fundamental nature of the NFP clients served by NFP Law has not changed markedly since these previous studies were conducted and the supporting evidence of the flow-on contributions made by the services that these NFPs remains applicable to this current study.

A further change to this study in contrast to Deloitte Access Economics (2015) is the presentation of economic and social contribution estimates for Australia as a whole (rather than Victoria and NSW separately). This reflects the extension of NFP Law's activities beyond these jurisdictions in recent years.

## 3.1 Measurement challenges

Measuring the economic contribution of NFP Law presents several challenges, related to the large non-market component and wide social dimensions of its operations and causality complications. These challenges are not unique to NFP Law — they are often inherent to quantifying impacts of social services and advocacy work.

### 3.1.1 Non-market nature and social dimensions

Economic contribution studies typically measure the value of economic activity generated by an entity or industry in a historical reference year. They quantify measures such as value-added, exports, imports and employment associated with the given entity or industry.

However, as NFP Law operates in a 'non-market' environment — that is, its services are predominantly offered free of charge to consumers — the standard economic contribution methodology would not capture the full economic value of NFP Law's activities.

Further, the narrow national accounting framework approach used in traditional economic contribution studies does not capture the wider social and economic implications of an entity's activities. Given the significant social dimensions of NFP Law's operations, encompassing spillover benefits such as greater workforce participation and reduced social services costs, adopting this methodology to establish its

contribution would considerably understate its impact on the NFP sector and the community more broadly.

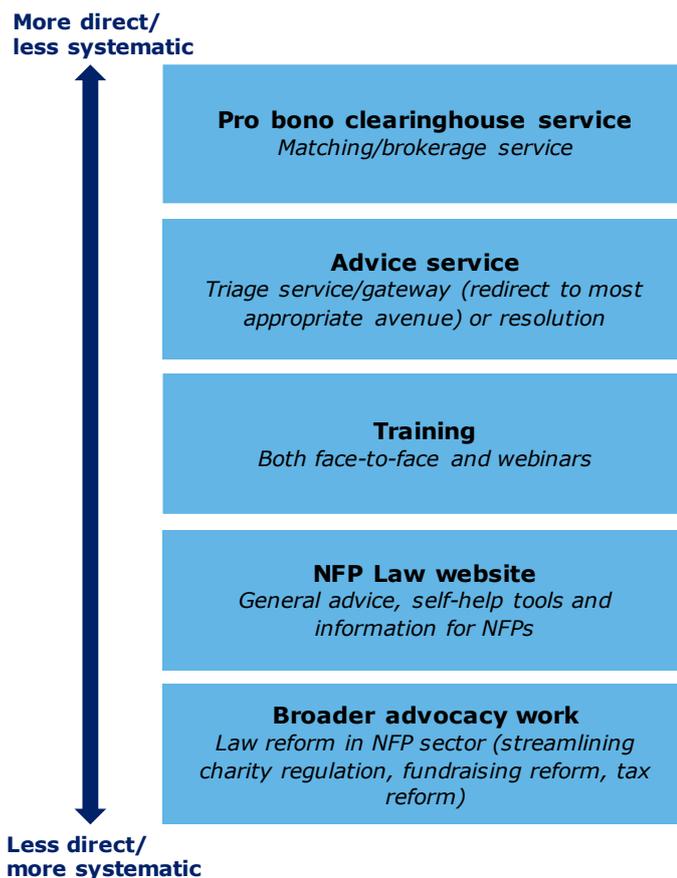
### 3.1.2 Causality

As Figure 3.1 below illustrates, NFP Law’s activities can be placed on a spectrum highlighting the general nature of their impact. For example, one-on-one service provision through pro bono legal assistance has a more direct influence — in other words, there is a relatively straightforward link between actual service delivery and the scope and extent of any impact (although such impact may still be difficult to measure).

In contrast, at the other end of the spectrum, impacts flowing from sector advocacy work are more systemic. This has been recognised in relevant research. For instance, it can be difficult to attribute the systemic impacts of advocacy work to any one organisation. Rather, the impact of such work tends to arise from networks of organisations and individuals working in concert over an uncertain period of time (see Ebrahim and Rangan 2010).

Intuitively, as the nature of the impacts become less direct and more systemic, they become harder to measure, since it is harder to identify specific beneficiaries and the extent to which benefits can be attributed to NFP Law, as illustrated in Figure 3.1.

Figure 3.1: NFP Law activities



As a further complication, NFP Law essentially ‘helps the helper’, which means the social benefits which flow from more efficiently operated NFPs are effectively one step removed. In other words, measurement becomes a more indirect proposition. Crucially, it is these spill over benefits which comprise the more significant part of NFP Law’s economic contribution.

### 3.2 Framework for evaluating NFP Law's economic contribution

To address these measurement challenges outlined above, the framework for the economic contribution analysis comprises two components:

- standard economic contribution analysis to estimate the direct economic impacts of NFP Law; and
- an 'efficiency dividend' approach to capture the wider economic implications of NFP Law, as they flow from NFPs to end beneficiaries.

#### 3.2.1 Standard economic contribution component

The direct economic contribution of NFP Law is quantified using the national accounting framework to provide a range of measures to capture its immediate economic profile and impacts. These measures include NFP Law's size and employment, value-added and contribution to national income.

Value-added measures the value (at market prices) of output generated by an entity's factors of production (i.e. labour and capital), as calculated through the income accruing to those factors of production. The sum of value-added across all entities in the economy equals gross domestic product (GDP) — or national income over a particular year. Given its relationship to GDP, the value-added measure can be usefully considered as the increased contribution to welfare.

As noted above, NFP Law largely operates in a non-market environment, as it generally provides its services on a non-fee paying basis, including facilitating legal assistance through private law firms. Consequently, within a national accounting structure, most of the income to the factors of production (mostly labour) will be through wages paid to NFP Law employees and wages paid to pro bono lawyers (which come from Justice Connect member law firms and participating barristers and corporates), to the extent these wages can be attributed to NFP Law's activities.

Such returns to labour contrast with low (perhaps zero) returns to capital because legal advice and relevant support functions involve few direct revenues. Where such returns do exist, these are generally measured through gross operating surplus.

This approach to measuring the direct forms of NFP Law's economic contribution is consistent with the ABS national accounts measurement approach as specified in the *Australian National Accounts: Non-Profit Institutions Satellite Accounts*. This formed the basis for further research undertaken by the Productivity Commission in its major 2010 report on the NFP sector, *Contribution of the Not-for-Profit Sector – Research Report*.

Given that most of the value provided by NFP Law lies not in its direct economic impacts (i.e. the 'transactions' that occur in the facilitation of pro bono legal support and other forms of assistance to NFPs) but rather its wider social benefits (i.e. benefits for NFPs and other stakeholders), the quantified measures that emerge from this component of the analysis are likely to be small and greatly exceeded by NFP Law's overall economic and social contribution.

##### 3.2.1.1 Limitation of economic contribution studies

It is important to bear in mind that economic contribution studies are essentially static — that is, they measure the economic 'footprint' of an entity at a particular point in time and do not take account of dynamic displacement or 'crowding out' effects on other sectors of the economy. In this sense, they do not reveal any 'what-if' or counterfactual inferences, such as 'what would happen to national income or welfare standards if the industry or firm disappeared?' Indeed, the use of economic resources (land, labour and capital) in production or service delivery represents a cost to the economy; and such resources are not for the exclusive use of any particular activity. They have other (possibly more worthwhile) uses which are simply excluded from this form of analysis. Consequently, results should be interpreted in light of this limitation.

#### 3.2.2 Efficiency dividend component

To capture the wider economic implications of the NFP Law program, where the substantial proportion of its value is derived, an 'efficiency dividend' approach is used.

By gaining access to legal services that may otherwise be unobtainable because of financial constraints, NFPs can operate on a more stable and effective footing, offering additional services to the community — in effect, there is an 'efficiency dividend'.

Under this approach, both the enhanced NFP service delivery that is unlocked through the consumption of NFP Law's services and the related social benefits are accounted for at a high-level. The framework aims to work along the entire sequence of impacts from the initial service function provided by NFP Law, through the immediate operational enhancements for NFPs, and then to the resultant spill over impacts accruing to end clients and the broader community.

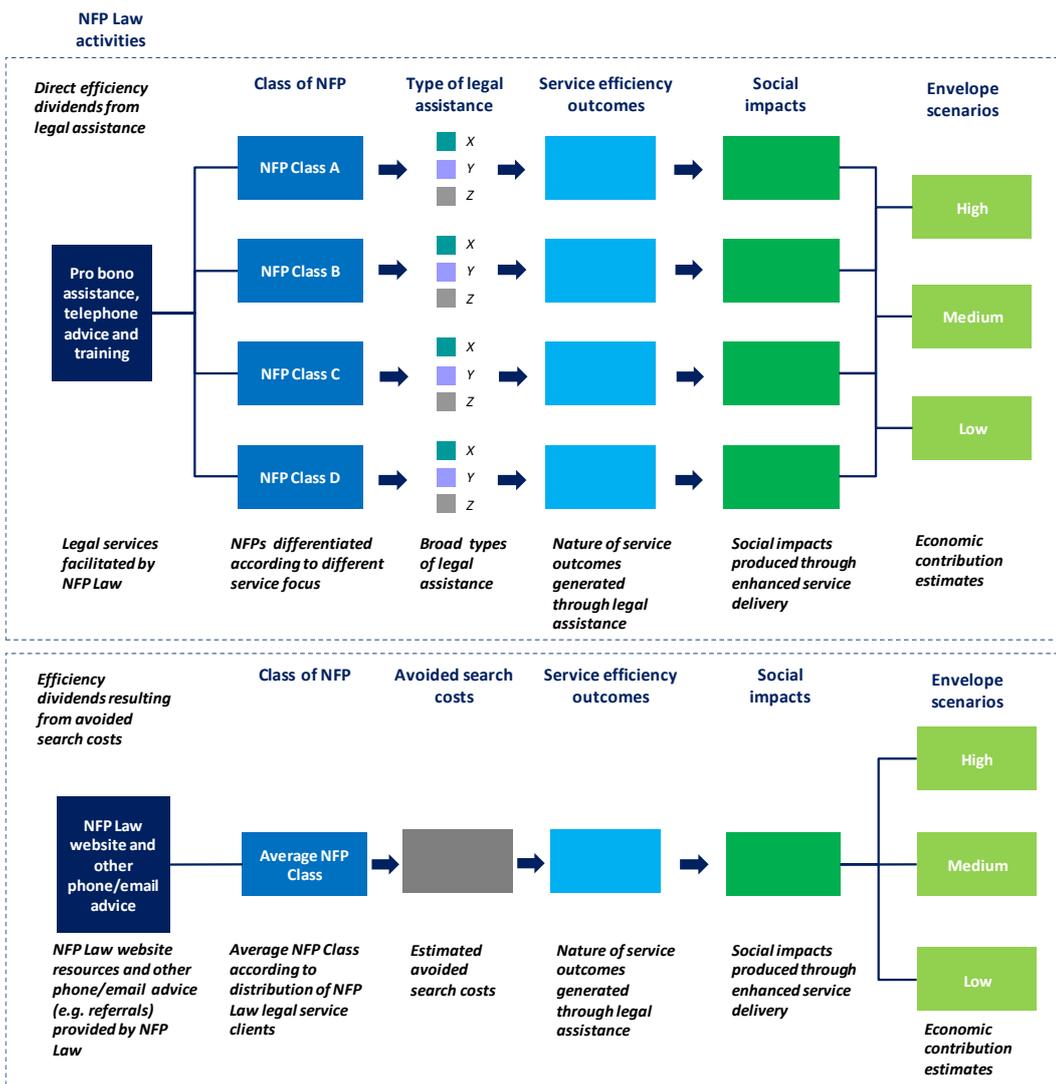
This component of the analysis includes the efficiency dividends generated by:

- the legal advice provided through its pro-bono advisory services directly improving operational efficiencies of NFP Law clients; and
- the 'search costs' avoided by NFP beneficiaries through the use of the online resources and other telephone legal assistance (e.g. referrals to other sources of help).

Policy and law reform work undertaken by NFP Law, which contributes to a better regulatory framework for NFPs, also leads to spill over impacts — however, as noted previously, this advocacy work is not included within the analysis.

Figure 3.2 below sets out the framework for this approach.

Figure 3.2: Efficiency dividend framework



### 3.2.3 Framework elements

The elements of this framework are outlined below.

- **NFP Law activity** — The four activities undertaken by NFP Law that can be most readily linked to impacts are the facilitation of pro bono legal assistance, telephone advice, training and the NFP Law website. NFP Law has a range of output data in relation to these activities, an overview of which has been outlined in Chapter 2 of this report.

The more systemic aspects of NFP Law’s activities, principally its broader advocacy work, are not measured through this framework and are therefore not discussed in our report. However, their impact and value is illustrated and measured by NFP Law using a range of qualitative and quantitative measures and is reported in an overall Justice Connect Impact Report (2017/18).<sup>2</sup>

- **Class of NFP** — Due to the diversity of NFP Law’s client base, and for the analysis to be workable, NFP clients are categorised into a discrete number of classes. These are:

- Class A — organisations supporting people experiencing marginalisation and disadvantage;
- Class B — organisations encouraging community participation and development;
- Class C — organisations protecting the environment and responding to disaster; and
- Class D — peak bodies, member-serving and advocacy-based organisations.

- **Type of legal assistance** — The type of legal assistance and other support received affects the nature of the service outcomes for NFPs. For tractability, the types of legal assistance are categorised into a discrete number of classes:

- governance matters;
- regulatory compliance;
- disputes and litigation; and
- contracts and risk management.

Such categorisation also captures, where possible, the assistance provided through NFP Law’s advice services, webinars and online resources.

- **Service efficiency outcomes** — For each category, this measures the additional service flow (or the ‘efficiency dividend’) to NFP beneficiaries following receipt of NFP Law services, such as an additional community service event each month. Essentially the framework seeks to distinguish two key effects:

- that a certain form of legal assistance provided to two different types of NFP organisations can have dissimilar operational impacts; and
- different types of legal assistance provided to NFPs within the same class can also have varying operational consequences.

- **Social benefits** — For each category, the potential social or longer-term impacts produced through enhanced service delivery are ascertained. These benefits are broad ranging and relate to end clients of NFPs, government, law firms, the broader community and the NFP sector itself (as described in Section 2.4).

- **Envelope scenarios** — This frames the various dimensions of the social benefits across NFP Law’s NFP base into various overarching scenarios and captures: productivity and participation; justice system savings; and reduced social services costs.

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<sup>2</sup> See <https://www.justiceconnect.org.au/our-impact/our-impact-numbers>

### **3.2.4 Case studies**

Case studies formed a crucial aspect of the original analysis conducted for this study in 2011. These case studies helped frame the nature of the impacts from legal support and how this assistance potentially translates into practical improvements to on-the-ground service delivery. The findings from the case studies consultations undertaken as part of the 2011 study for NFP Law continue to play an important role in supporting the analytical and quantitative assumptions that underpin this economic contribution study. Based on advice from Justice Connect NFP Law, the findings from these case studies continue to form a robust source of evidence of the contributions made by NFP Law's legal services. Additional case studies undertaken for the current report, outlined in Appendix A, provide a qualitative overview of the impact of NFP Law's current services.

The consulted organisations were selected in order to provide a wide cross-section of the NFP Law client base (covering the four main classes of NFP organisation examined in the quantitative analysis). Discussions demonstrated the diversity in the NFP sector and the various challenges, legal and otherwise, confronted by organisations in front line service delivery. Details of these case studies and the organisations consulted are included in Appendix A (2018) and B (2011) of this report.

### **3.2.5 Bringing the analysis together – establishing the contribution 'envelope'**

The final and crucial stage in the approach involves translating the efficiency enhancements across NFP Law's NFP client base into more concrete, and quantifiable, social benefits. This necessarily involves delicate judgements about flow-on impacts, including their scale and timing and the extent to which benefits will be depleted over time. These factors are heavily informed by case study evidence captured as part of this study and the initial study, Deloitte Access Economics (2011).

In order to estimate the potential bounds of these social benefits, a multi-criteria scenario approach has been used. This involves framing the various dimensions of the social benefits across NFP Law's NFP base into various overarching scenarios. Each scenario combines quantifiable elements attributable to the specific activities being examined such as: productivity and participation; justice system savings; and reduced social services costs.

Importantly, these forms of potential impact can be incorporated in a national accounting framework and therefore readily combined with the direct economic contribution estimated to form a complete profile of NFP Law's economic and social contribution. Appropriate scenarios are also devised to explore the potential bounds of the contribution envelope, articulating high, central and low cases.

It is important to note the evaluation of NFP Law's economic contribution under this approach is undertaken at a high level and in a static framework. Where significant effects occur into the future, it is necessary to discount these to a common (reference) year, but prolonged year-on-year impacts are not included (consistent with the conservative approach taken in the analysis). In this way, the approach does not involve many of the detailed assessments typically adopted to measure the costs and efficacy of particular interventions (for example, alleviation of disadvantage provided by NFPs). Indeed, such assessments, applied over the breadth and scope of the relevant NFP activities, would be severely impractical and could lead to issues of spurious precision.

The estimates generated under this approach are illustrative in nature and represent the scale of potential impacts generated by NFP Law. It will always be the case that some important impacts such as those which involve broad cultural benefits are extremely difficult to quantify.

# 4 Economic contribution

This section discusses the economic contribution estimates of the NFP Law program. It encompasses the direct economic contribution provided by delivery of the program activities (including provision of pro bono legal services from private sector lawyers), as well as the broader spill over benefits which result from greater operational capacity in the NFP sector.

## 4.1 Standard economic contribution component

As outlined above, the standard component of NFP Law's economic contribution is quantified using the national accounting framework and a range of measures such as NFP Law's size and employment, value-added and contribution to national income.

An estimate of the value-added of NFP Law's activity in 2017/18 measures the value of its output, generated by its factors of production (labour and capital). As outlined in Table 4.1, this gives a total value added of around \$1.6 million, comprising \$1.45 million generated by labour (measured by wages).

Table 4.1: Standard economic contribution, 2017/18

<b>Direct</b>	<b>\$</b>
FTE	11.3
Wages	1,251,069
Operating revenue	1,627,892
Operating costs	1,594,076
GOS <sup>^</sup>	33,816
Direct value added	1,284,885
<b>Indirect</b>	
Total intermediate inputs	343,007
Multiplier	0.25
FTE	2.6
Wages	201,156
GOS <sup>^</sup>	117,329
Indirect value added	318,486
<b>Total value added</b>	
Wages	1,452,225
GOS <sup>^</sup>	151,145
<b>Value added</b>	<b>1,603,370</b>

Source: Deloitte Access Economics estimates, NFP Law

<sup>^</sup>GOS = Gross operating surplus. GOS represents the value of income generated by an entity's direct capital inputs, generally measured before interest, tax and depreciation.

Further detail on the methodology that supports these standard economic contribution estimates is included in Chapter 3 of this report.

## 4.2 Value of services

The value of services provided or facilitated by NFP Law has also been estimated as part of this study. This comprises advice provided by NFP Law lawyers, pro bono legal advice provided to NFP organisations because of NFP Law's brokerage service and the value of pro bono training facilitated by NFP Law, and in-person and webinar training sessions presented by NFP Law staff.

As outlined below in Table 4.2, the approximate value of pro bono legal advice is calculated based on the average value of a pro bono case and the total number of cases referred in 2017/18.

The approximate value of formal legal advice provided by NFP Law lawyers is calculated based on an average hourly rate of legal advice and the number of advice services provided in 2017/18 (assuming that each of these represents 1.75 hours of legal advice).

Webinars run by NFP Law generally charge nominal fees to participants to cover the cost of facilitating the training sessions. NFP Law staff often co-present these sessions with pro bono lawyers (or other experts, such as accountants or social entrepreneurs), while the value of external presenter's time is provided pro bono. In principle, the value of NFP Law facilitating these services is captured in the standard economic contribution component of this analysis, with the exception of external presenters' time which is provided pro bono. As such, the value of the webinar series is calculated based on the market rate of pro bono presenters' time, as outlined in Table 4.2.

Other training services are also provided by NFP Law to a large number of participants. This involves NFP Law's 'social enterprise' model, whereby NFP Law delivers customised legal training on a relatively modest fee-for-service basis. Key clients of this service are local councils, NFP peak bodies and networks, who typically engage NFP Law to deliver training at a time and place that suits their constituents (regularly in outer metro or regional areas and/or after hours) and which is often ultimately free of charge for the participating NFPs.

These customised training sessions and other training sessions provided by NFP Law generate a significant value to a large number of NFPs, especially those who operate in regional areas who would not receive access to such valuable resources. However, because NFP Law received participation fees for these services and delivers them using staff lawyers, it is not possible to accurately quantifying the pro bono component value of these services.

NFP Law also regularly delivers free legal training (usually shorter sessions of up to 1 hour) at NFP sector conferences and events, including volunteering and local community conferences. Further, NFP Law delivers periodic free legal training for pro bono lawyers. This is part of NFP Law's commitment to building pro bono capacity and expertise in the legal profession to support the NFP sector.

In some instances, the 'market value' of these training services will exceed the fees paid by participants (or on behalf of participants by local councils, peak bodies, etc.), however the prevalence and value of this additional pro bono value cannot be clearly observed or measured and, as such, it is not included in this report. Overall, it should be noted the total value of training services presented here is likely to be an underestimate of the total value of all training services provided by NFP Law.

The NFP Law website contains a number of resources (guides, fact sheets, interactive decision-making apps) that have been prepared by pro bono lawyers for NFP Law. These guides and fact sheets are made available without charge. The market value of these resources can be calculated based on the value of the pro bono hours committed to producing them, which represents the market price that a NFP organisation would pay to have these resources produced for them (a common service provided by law firms). The total market valuation of the new resources made available on the website in 2017/18 is included in Table 4.2 below.

Table 4.2: Total value of legal services

<b>Service</b>	<b>Value</b>
Total value of legal advice (\$)	\$2,518,689
<i>Average value of pro bono services (\$)*</i>	<i>\$13,326</i>
<i>Number of cases</i>	<i>189</i>
Total value of training services (\$)	\$2,958
<i>Value of webinar training**</i>	<i>\$2,958</i>
Total value of NFP Law-delivered advice (\$)	\$327,840
<i>Hourly rate of legal advice (\$)‡</i>	<i>449</i>
<i>Number of advice services</i>	<i>417</i>
Total value of website resources (\$)	\$321,240
<i>Average market value of fact sheets (\$)</i>	<i>2,947</i>
<i>Average market value of guides (\$)</i>	<i>5,894</i>
<i>Total number of fact sheets</i>	<i>95</i>
<i>Total number of guides</i>	<i>7</i>
<i>Total number of interactive apps</i>	

Source: Deloitte Access Economics estimates, NFP Law

\* Average financial value of referrals is a weighted average, based on the average dollar value of referrals provided through closure reports across Australia.

\*\*The market value of webinar training has been estimated as \$84.5 per hour based on similar services offered in the market.

‡ Based on 2018 closure reports and assumed to be equal across Victoria and NSW.

§ Each unit of telephone legal advice is assumed to last for an average of 1.75 hour.

The total value of legal advice provided on a pro bono basis is estimated to be around \$2.5 million, while the total value of staff-delivered advice is estimated at about \$327,800. The total pro bono value of the training services provided by NFP Law is estimated at around \$2,958. For the online resources, the value of the new resources (fact sheets, guides, apps) made available in 2017/18 is estimated at around \$321,240 million. Additional development of a web application in 2017/18, to accompany the website, is valued at \$77,804. Combined, these give a total value of legal services (including training sessions and information) provided by NFP Law of approximately \$3.2 million.

The value of tailored legal assistance has not been estimated as there is no reliable estimate of the market value of these services. Nonetheless, these services clearly provide value to the NFPs that utilise them, in particular through the avoided cost of searching for this information from other sources. Quantification of the economic contribution of these services forms part of the efficiency dividend component of this analysis and is outlined in section 4.3.

In the context of the broader NFP sector and the Australian economy, the direct economic contribution of NFP Law and the pro bono services it brokers through the private sector are modest. However, most of the value of the program's economic contribution arises from its wider economic implications — that is, the spill over impacts generated through operational improvements to the NFP sector which flow-on to their clients and the broader community. The estimate of this efficiency dividend component of NFP Law's activities is outlined below.

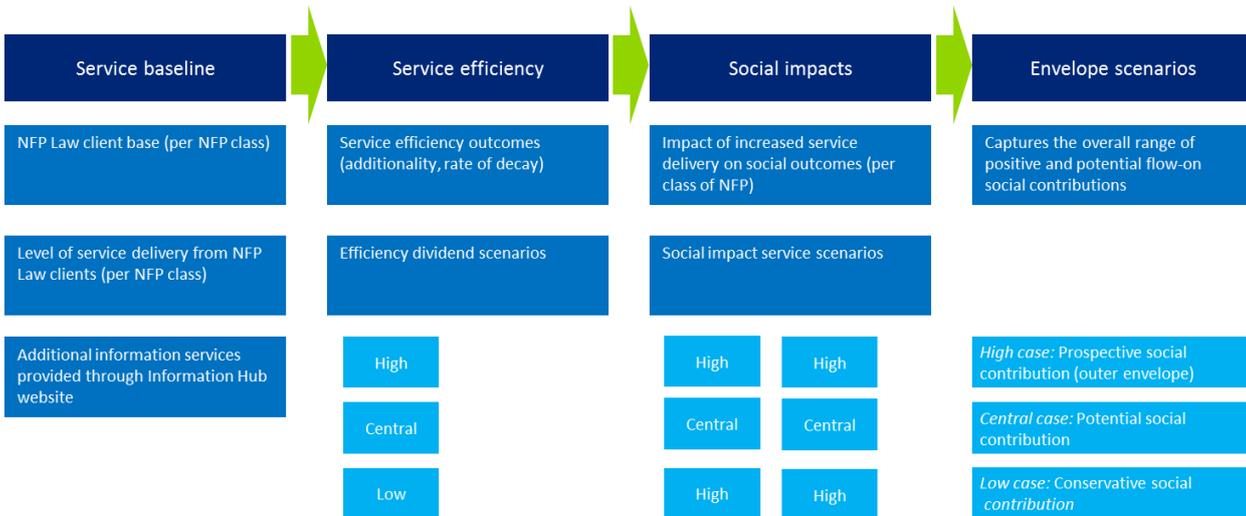
### 4.3 Efficiency dividend component

As outlined in Figure 4.1, estimation of the wider economic implications of NFP Law's activities is undertaken using an efficiency dividend approach. This involves a multi-staged approach that takes into

account the class of NFP organisation receiving assistance from NFP Law, the type of legal assistance provided and a sensitivity analysis based on envelope scenarios.

The framework involves estimation of both the service efficiency outcomes generated by NFP Law’s assistance, as well as the social benefits associated with that increase in service output. Both these effects are accounted for at a high level and in a largely static manner. The key steps undertaken in the assessment are shown in Figure 4.1.

Figure 4.1: Economic contribution estimation process



### 4.3.1 Service efficiency outcomes

The first step in determining the efficiency dividend component is to estimate the service efficiency outcomes generated as a result of NFP Law’s legal assistance to NFP organisations. These service efficiency outcomes allow NFP organisations to provide additional client services to the community.

In the 2011 report on the economic contribution of NFP Law (then PilchConnect), assumptions were made about the degree of efficiency gains achieved over time following receipt of legal assistance from NFP Law. These were informed by case study discussions. On the basis of consultations, a 10% operational efficiency improvement is considered to represent an appropriate benefit across the NFP Law client base. These benefits were taken to reduce over a three year period.

Following an examination of NFP Law’s current service profile and the nature in which clients continue to benefit from its services, it has been determined, in consultation with NFP Law, that this previous assumption regarding the operational efficiency improvement remains applicable to NFP Law’s current operations. As outlined in Table 4.3, this stream of benefits equates a total efficiency saving of 15.8% in present value terms.

As in the 2011 report, the above service efficiency assumption relates to the pro bono legal advice and in-house legal assistance clients of NFP Law in 2017/18.

In addition to pro bono legal referrals, NFP Law provides other referrals and information through its advice service, as well as online resources on the NFP law website. Calculating the economic benefit of these phone and online tools is a challenging task given the available data, however using a number of simplifying assumptions, a conservative estimate can be made.

Broadly, the provision of these services produces an ‘efficiency dividend’, whereby NFP organisations benefit from the value of the advice as well as the time savings afforded. The efficiencies created can then lead to further social benefits created by these organisations.

**Time savings** accrue by reducing (i.e. avoiding) the search costs involved with finding relevant information and the appropriate personnel. In many instances, the advice provided can streamline processes and reduce the time required to resolve issues, as well as simply promoting learning and understanding of business practices. In a resource-constrained work environment, this allows for more operational time and ultimately greater social impact.

**Reducing barriers** to legal services is another important function of NFP Law's information services. Many organisations are not aware or do not have the capacity to access specific legal or regulatory services. Providing free and accessible information allows for greater utilisation of the system in place and offers benefits to these organisations.

In addition to the value for NFP organisations, third party entities can also benefit from having better informed customers or partners. With appropriate guidance and information, interactions between NFPs and others can be utilised more efficiently, offering time savings for both NFPs and the third party entities that they interact with (e.g. the Australian Taxation Office, consumer affairs and fair trading regulators, or the Australian Charities and Not-for-Profits Commission).

For NFP Law's website, only the efficiency dividend associated with time savings, as outlined above, has been measured. This conservative approach reflects a lack of detailed information on the effect that the highly diverse range of information offered through the website has on the efficiency of the NFPs who benefit from it. In principle many NFPs would eventually collect and act upon the information contained on the website even if the site itself was not available. However the centralised location of a large number of relevant information resources likely reduces the search time required to find this information.

Based on a number of studies on the time businesses and NFPs spend searching for relevant information such as that provided through the NFP Law website it is conservatively assumed that each use of information from the website (measured through resource page exits) saves a NFP organisation 1.7 hours of time per full-time equivalent (FTE) worker through avoided search costs. Based on the estimated average size of NFP organisations in Australia this is equivalent to total employee time savings of around 30 hours per year.<sup>3</sup>

This time saving is associated with an efficiency dividend of around 0.1% for each use of website resources, as it is assumed that these NFPs are able to redeploy these time savings to expand their service delivery. This is assumed to be a one off benefit and is therefore not extrapolated (and subsequently discounted) over future years.

In terms of the other information and assistance provided through NFP Law's advice service, it is assumed that more significant time savings would be realised, equivalent to an efficiency dividend of around 0.5% (that is, a total time saving of around 150 hours for each NFP organisation in a year, or around 10 hours per FTE). Further, it is clear that for some of the beneficiaries of this service, the nature of the service they receive is close to value of those who benefit from formal phone legal advice.

This occurs as the referrals and information provided in many cases results in a reduction in legal and administrative barriers to NFP organisations that is similar in nature to that provided by formal legal advice. A conservative assumption of the value of this efficiency dividend is **one fifth** of the value of formal legal advice (on average). When combined with the benefits from reduced search costs this equates to a present value efficiency dividend of around 3.7%.

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<sup>3</sup> Average NFP size estimates based on information contained in ABS Cat. No. 5260.0 – Australian National Accounts: Non-Profit Institutions Satellite Account, 2012-13.

Table 4.3: Service efficiency assumptions

	Present value	Year 1	Year 2	Year 3
<b>Legal advice (pro bono referral or NFP Law delivered)(%)</b>	15.8	10.0	4.4	1.9
<b>NFP Law website (%)</b>	0.1	0.1	-	-
<b>Other phone/online assistance (%)</b>	3.7	2.5	0.9	0.4

Source: Deloitte Access Economics estimates, using a social discount factor of 7%

Note: Minor changes to the assumed benefits in years 2 and 3 have been made from the last report reflecting a change to the discounting approach in this study.

These assumed service efficiency improvements were then applied to the estimated client baseline for each NFP organisation class serviced by NFP Law, in order to determine the number of additional client services that could be provided as a result of operational improvement. Following the previous 2015 evaluation of NFP Law's economic contribution, the Australian NFP sector has seen considerable growth. This indicates a likely increase in the NFP client baseline of Australia and therefore the estimate of the client baseline for each NFP organisational class serviced by NFP Law. Between 2007 and 2013 the total number of full time employees in the NFP sector grew by 12% (ABS, 2013). This rate has been conservatively applied as the growth rate of the client baselines for each NFP Law organisation class.

For pro bono legal advice and NFP Law-delivered legal assistance, the estimated client baseline is determined based on the number of organisations assisted by NFP Law in 2017/18 in each organisation class and the average number of clients assisted by organisations in each class, inflated by 12%, as shown in Table 4.4. From these services, it is estimated that approximately 5,300 additional client service episodes will be provided over the course of three years because of efficiency gains in NFP organisations assisted by NFP Law in 2017/18, as a result of pro-bono referrals.

For the NFP Law website and other assistance and advice provided by NFP Law staff directly, an average profile of NFP beneficiaries is used, based on the profile of clients assisted through legal advice services. The average number of clients served by this representative NFP is estimated to be 55.8 each year, across the four organisational classes outlined in this report, as shown in Table 4.5 and Table 4.6. For the NFP Law website, it is estimated that approximately 10,800 additional client service episodes will be provided in 2017/18 as a result of efficiency gains in NFP organisations that access the resources on the site, as shown in Table 4.5.

Similarly, for other phone/email assistance it is estimated approximately 1,900 additional client service episodes will be provided over the course of three years, as shown in Table 4.6.

It is estimated that approximately 18,000 additional client service episodes will be provided over the next three years because of efficiency gains in NFP organisations assisted by NFP Law in 2017/18, as summarised in Table 4.7.

Table 4.4: NFP beneficiaries of formal legal advice (pro bono referrals and NFP Law in-house legal advice)

<b>Organisation class</b>	<b>NFP Law organisations (2017/18)</b>	<b>Clients per organisation</b>	<b>Client baseline</b>	<b>Additional client service episodes</b>
A — Supporting people experiencing marginalisation and disadvantage	416	71.8	29,856	4,703
B — Encouraging community participation and development	59	15.8	932	147
C — Protecting the environment and responding to disaster	62	24.4	1,512	238
D — Peak bodies, member-serving and advocacy-based	69	22.1	1,522	240
<b>Total</b>	<b>606</b>		<b>33,822</b>	<b>5,328</b>

Source: Deloitte Access Economics estimates, NFP Law operational data, ABS Cat. No. 8106.0, Productivity Commission 2010

Note: No updated information was available for the number of NFP organisations by operation type (ABS CAT 8106). Similar, yet incomplete data was available for 2013 (ABS CAT 5256), however the corresponding updated data for the number of people receiving and being turned away from community services was unavailable (ACOSS, 2013).

Table 4.5: NFP beneficiaries of the NFP Law website and web app

<b>Organisation class</b>	<b>Number of instances of NFPs accessing online resources (2017/18)</b>	<b>Average clients per organisation</b>	<b>Client baseline</b>	<b>Additional client service episodes</b>
NFP Law average organisational class	194,061**	55.8	10,830,906	10,831

Source: Deloitte Access Economics estimates, NFP Law operational data, ABS Cat. No. 8106.0, Productivity Commission 2010

\*Note that a single NFP may access online resources multiple times (i.e. accessing multiple resources). Each time a resource is accessed an efficiency dividend is generated. This may occur multiple times for a single NFP beneficiary and as such their client base is counted multiple times in the above calculations.

\*\*Measured as total number of visits (sessions) plus the number of uses of the NFP Law web app

Table 4.6: NFP beneficiaries of tailored legal information

<b>Organisation class</b>	<b>Number of NFP beneficiaries (2017/18)</b>	<b>Average clients per organisation</b>	<b>Client baseline</b>	<b>Additional client service episodes</b>
NFP Law average organisational class	931*	55.8	51,961	1,897

Source: Deloitte Access Economics estimates, NFP Law operational data, ABS Cat. No. 8106.0, Productivity Commission 2010

\*Note this includes the pilot Livechat service

Table 4.7: Summary of additional client service episodes

<b>NFP Law service</b>	<b>Additional client service episodes</b>
Pro bono referrals	5,328
Website and web app	10,831
Tailored legal information	1,897
<b>Total</b>	<b>18,056</b>

#### 4.3.2 Social benefits

As outlined in Box 3 of this report, utilising the same methodology as the initial 2011 study, social benefits were estimated for a sub-set of the benefits outlined previously. This sub-set includes those benefits that could be most practically quantified:

- participation and productivity benefits;
- justice system savings; and
- social service costs avoided.

Deloitte Access Economics' 2011 report included health care costs avoided as an additional quantifiable social benefit. Due to a lack of contemporary data related to this measure and a re-evaluation of the methodology utilised for estimating these benefits (after consideration of the contemporary literature on this topic), it was excluded from the 2015 analysis and from this current study. It should be noted that avoided health care costs in some form are a likely direct benefit from improved service efficiency of NFPs, and, as such, these estimated represent a conservative underestimate of the total magnitude of the spill over impact of NFP Law's services.

This exclusion means that the estimated figure in this study is proportionately lower than it would have been had the same methodology from the original 2011 study been used. This should be noted when considering the change in the social contribution made by NFP Law over the period of these three studies, as the estimates are not directly comparable.

Potential rates of effectiveness in achieving each of these three social benefits were then estimated for each NFP organisation class (see Table 4.8).<sup>4</sup> Class A of organisations (those supporting people experiencing marginalisation or disadvantage) were assumed to have the highest rate of effectiveness in achieving the potential social benefits as they have the most direct interaction with the community.

On the other hand, Class D organisations (peak bodies, member-serving and advocacy-based) were taken to have a somewhat lower rate of effectiveness, as measured according to the selected social impact channels. While they play a vital and important role in the NFP sector, their interaction with the community is less direct.

It is likely that the assumed rate of effectiveness below for these organisations (i.e. Class D organisations) represents an underestimate of the substantial flow on contributions made by these

<sup>4</sup> In the case of the NFP Law website and other phone/email advice, where the organisational class of the NFP beneficiary is not known, impacts were assumed to be distributed across the four classes on the same basis as the representation of beneficiaries for advice services.

bodies, as they too assist by 'helping the helper' in a similar manner to NFP Law. However the intractability of these indirect and flow-on effects meant that the assumption used in the 2011 study was retained for this updated report (as it was for the 2015 report). Further detail on the nature of these contributions through a number of key case studies for VCOSS and other peak bodies is provided in Appendix A and B of this report.

Table 4.8: Service scenarios (central case)

<b>Organisation class</b>	<b>Participation and productivity</b>	<b>Justice system savings</b>	<b>Reduced social services costs</b>
A — Supporting people experiencing marginalisation and disadvantage	10%	10%	10%
B — Encouraging community participation and development	5%	5%	5%
C — Protecting the environment and responding to disaster	5%	5%	5%
D — Peak bodies, member-serving and advocacy-based	1%	1%	1%

Source: Deloitte Access Economics assumptions

The next step is to estimate the 'spill over' benefits generated by NFP organisations assisted by NFP Law. A monetised benefit is estimated for each of the above three social benefits, in terms of the benefit or cost avoided on a per case basis. This is an estimate of the dollar benefit that would likely be achieved for a typical successful case of support by an NFP organisation. This 'successful case' should be viewed as a stylised example representing the average effect on the population in question.

The assumed nature and quantification of these spill over benefit estimates has been maintained from the 2011 study of NFP Law's economic contribution (with the exception of avoided health care costs, which are no longer quantified). Where appropriate data sets have been updated based on the most recently available data and has been indexed to 2017/18 dollar values.

For participation and productivity benefits, a successful case of support is taken to increase a person's total days at work by 12 over the period of a year (around 1 day per month). At a daily wage of \$241, this generates a total benefit estimate of \$2,897 per case.

Table 4.9: Participation and productivity benefits

	<b>Daily wage (\$)</b>	<b>Increase in days</b>	<b>Total benefit (\$)</b>
FTE	241	12	2,897
Total per case			2,897

Source: Deloitte Access Economics assumptions, ABS Cat. No. 6302.0 - Average Weekly Earnings, May 2018

Estimates of justice system savings are presented in Table 4.10. These are based on the cost attributable to someone entering the justice system on a per day basis, and cover court costs, prison costs and community corrections.

The days avoided in each of these three elements of the justice system as a result of NFP organisation assistance were estimated, giving total justice system savings of \$4,661 on a per case basis.

Table 4.10: Justice system savings

<b>Costs type</b>	<b>Costs per day(\$)</b>	<b>Days avoided</b>	<b>Total cost avoided (\$)</b>
Court costs	621	1	621
Prison costs	244	15	3,660
Community corrections	25	15	379
<b>Total per case</b>			<b>4,661</b>

Source: Deloitte Access Economics assumptions, Australian Institute of Criminology, 2013, Productivity Commission, 2014.

Social service costs avoided were assumed to relate to claims on unemployment benefits. As outlined in Table 4.11, the Newstart Single allowance is used as a benchmark to estimate this social service cost saving. It is assumed that, because of support provided by NFP organisations, two fortnightly claims on unemployment benefits could be avoided on a per case basis. This would lead to a total cost saving of around \$1,092 per case.

Table 4.11: Social service costs avoided

<b>Costs type</b>	<b>Costs per fortnight (\$)</b>	<b>Fortnights avoided</b>	<b>Total cost avoided (\$)</b>
Newstart Single, no children	546	2	1,092
<b>Total per case</b>			<b>1,092</b>

Source: Deloitte Access Economics assumptions, Centrelink 2015

### 4.3.3 Envelope scenarios

These estimates of the dollar benefit achievable across the three social benefits were combined with projections of impact effectiveness and the efficiency gain achieved as a result of NFP Law's legal support, including the NFP Law website. Combining these factors gave an estimate of the efficiency dividend component of NFP Law's economic contribution.

As with the previous studies, the benefits associated with the three social benefits were estimated under a low, central and high scenario. As outlined above, these estimates were based on a number of key parameters:

- The efficiency outcome and additional client service episodes achieved through NFP Law's activity.
- The effectiveness of the different NFP organisation classes in achieving benefits for the three social benefits.
- The dollar benefit associated with a 'typical' case of successful support by an NFP organisation.

The estimates outlined below reflect assumptions made under the central case. All three of the major assumptions (service efficiency, service scenarios and social benefit parameters) outlined above were estimated at 90% for the low case estimates and at 110% for the high case estimates.

Table 4.12: Service scenarios — social benefit projections (2017/18)

	Participation and productivity	Justice system savings	Reduced social services costs	Total
<b>Low (\$ million)</b>	3.9	6.3	1.5	11.7
<b>Central (\$ million)</b>	4.8	7.8	1.8	14.4
<b>High (\$ million)</b>	5.8	9.4	2.2	17.4

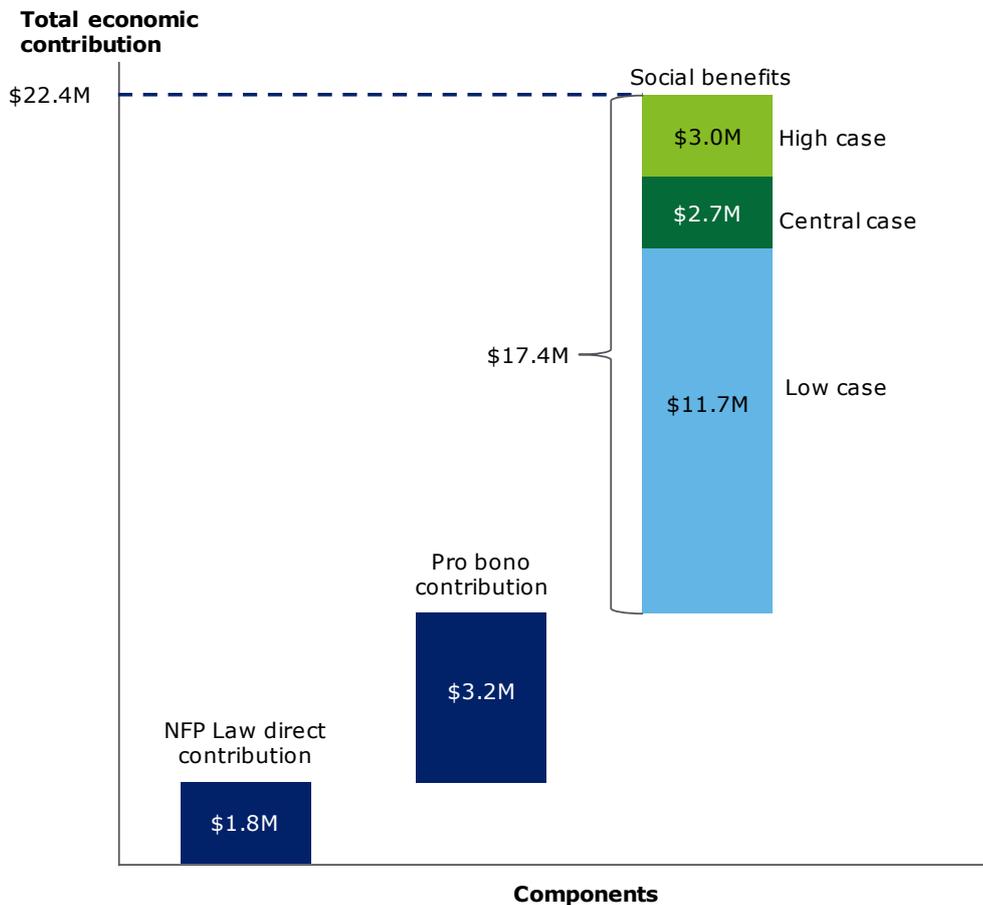
Source: Deloitte Access Economics estimates

Under the central scenario, the efficiency dividend component of NFP Law’s economic contribution is estimated to be \$14.4 million at 2017/18. Under more conservative assumptions in the low scenario it is estimated at \$11.7 million; and in the high scenario it is estimated at around \$17.4 million.

Including the standard economic contribution of NFP Law (including the contribution of secondees to NFP Law) and the value pro bono services provided (including training services and the online resources), the total economic contribution of NFP Law in 2017/18 is estimated to be approximately \$19 million under the central case social impact scenario and \$22 million under the high case.

The overall economic contribution estimates are set out in Figure 4.2, below.

Figure 4.2: Economic contribution of NFP Law



Source: Deloitte Access Economics

Since the last study in 2015, the economic contribution of NFP Law has more than doubled, despite only a modest increase in its direct contribution. The continuing growth in NFP Law's service delivery, including the widespread use of the NFP Law website, which contributes to a substantial component of their economic contribution, indicates there is potential for scale of these benefits given further investment.

#### **4.3.4 Some limitations**

Assessing the broader benefits generated through the NFP Law program is far from straightforward. The evaluation of the social benefits of the program flowing via enhanced capacity in the NFP sector has been undertaken at a high level and has not involved many of the more detailed assessments typically adopted to measure the costs and efficacy of particular social programs (for example, in conducting comprehensive program reviews).

NFP Law uses a Theory of Change monitoring and evaluation framework<sup>5</sup> with a range of monitoring and evaluation indicators to measure the social benefits it seeks to achieve — over the short, medium and long term.

With respect to our analysis, some key constraints should be noted:

- The availability of robust information — especially in relation to the longer term impact of NFP Law services to NFP operations — is a limitation of the study. That said, many of these data issues are those typically confronted when measuring the efficacy of various forms of social service delivery and policy formulation.
- The social benefit scenarios have accordingly relied on a high degree of judgement, especially regarding the precise linkages between operational and social outcomes. They have been heavily informed by the methodology developed through case study evidence and have been underpinned by a conservative approach to the analysis.
- While the estimates of the social benefit have been designed to be wide-ranging, they do not encompass all important social benefits. Many community impacts such as facilitating greater social inclusivity and advancing cultural values are very difficult, if not impossible, to quantify.

Given these issues, the estimates of social contribution are best considered illustrative and representing the scale of potential benefits generated through the NFP Law service.

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<sup>5</sup> See <https://www.justiceconnect.org.au/our-impact/how-we-measure-our-impact>

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# Appendix A: Case studies (2018)

## **West Wyalong Local Aboriginal Land Council**

West Wyalong Local Aboriginal Land Council (West Wyalong LALC) is one of 120 Local Aboriginal Land Councils in New South Wales established under the Aboriginal Land Rights Act 1983 (NSW). West Wyalong LALC's core activities stem from its ownership and management of land claimed through Aboriginal Land Claims, with a focus on conservation and cultural heritage protection and management. West Wyalong LALC is committed to improving, protecting and fostering the best interests of its 130 members and all Aboriginal people living within the LALC's area. The LALC envisages a future where the whole community will have an improved awareness and understanding of, and respect for, Aboriginal culture and heritage.

West Wyalong LALC sought NFP Law's assistance with an application to the Federal Court for a determination that native title did not exist over parcels of the LALC's land, which if successful, would enable the LALC to remove a restriction on selling the land and generating much needed funds to continue its work in the community. Not-for-profit Law facilitated the assistance of a team of pro-bono lawyers from a private law firm who specialised in native title law, to support West Wyalong LALC with its application. The lawyers worked with West Wyalong LALC throughout the entire process, from preparing the application and supporting evidence to progressing it through the Federal Court. This process took three years, and without the assistance of Justice Connect in facilitating the pro bono legal assistance, West Wyalong LALC would not have had the funds, resources or expertise to make the application, and the land would have remained unused due to the restriction over it.

Following a favourable outcome on its application, West Wyalong LALC was able to sell the land for the development of housing stock and produce an income stream to develop other parcels of its land. The LALC currently has four social housing developments and is planning for a further, extensive housing development in the long term to help boost the local economy. A greater availability of housing in West Wyalong will provide assistance to local families and renters, and enable the LALC to work towards becoming self-sustaining in the long term.

The legal assistance provided has also helped West Wyalong LALC build its capacity to handle legal and governance issues in the future, and has set a positive precedent for future applications to remove restrictions from its land. Following the success of the first application, West Wyalong LALC has continued to access Not-for-profit Law's pro bono legal services for assistance with other issues, such as advice on sub-dividing land, and plans to work with the same pro bono lawyers on upcoming native title matters.

## **Pearls Place Community Inc.**

Pearls Place Community Inc (Pearls Place) run a community-based café in Pambula, NSW that provides free meals and meal parcels to individuals disadvantaged by low income, social isolation or mental ill-health. Pearls Place is staffed entirely by volunteers and operate through donations. Food is donated from supermarkets, bakers and other local food suppliers, or is donated by members of the community. Pearls Place operates one day per week, and assists between 25-50 people in any given week.

Pearls Place sought the assistance of Justice Connect NFP Law to register as a charity with deductible gift recipient status (DGR), via a recommendation from the Australian Charities and Not for Profit Commission. NFP Law provided the organisation with telephone advice to ensure it understood the legal and administrative requirements involved. Throughout this process, NFP Law also provided expertise to Pearls Place to help it amend its constitution and gave additional advice on gaining DGR.

This assistance had both direct and indirect benefits for Pearls Place and the community it serves. By becoming an official charity with DGR, the organisation has confidence to plan for the future and apply for a wider range of grants. This also gave assurance to its volunteers and guests that they could continue to be operating and building their service, with a view to expanding. Pearls Place now has four volunteer chefs, access to a greater variety of better quality food and is considering expanding its opening hours to an additional day per week. Without the assistance provided by NFP Law, it is likely Pearls Place would have spent a lot more time and effort trying to undertake the process themselves. It is also likely it may not have been able to achieve such desirable outcomes within the same timeframe.

### **Warrnambool Community Gardens**

Warrnambool Community Garden was established in 2009 by a small group who wanted to create a space where members of the community could come together to grow food, share knowledge, learn and practice sustainable living. Since 2009, the space has grown to 60 garden plots, including communal gardens, herb and bushfood areas, chooks, shelters, and a wood fire pizza oven, as well as a community building called 'The Hub', which has been upgraded with a commercial kitchen and is used for cooking, meetings, workshops and gatherings. The Warrnambool Community Garden now has over 100 members – a diverse range of individuals and organisations – including people with a physical, mental or social/vocational disadvantage who come to the garden to learn about organic gardening and sustainable living. It also runs a number of community workshops throughout the year and holds programs for school groups.

Warrnambool Community Garden initially sought the assistance of Justice Connect NFP Law with a dispute with one of its members. Its committee members had been spending a significant amount of time trying to resolve the issue themselves, a process which was both time consuming and emotionally burdensome. Following advice from NFP Law, Warrnambool Community Garden was able to make updates to their constitution to resolve the matter quickly. The template constitution on NFP Law's website made this process easy, as the organisation was able to use this constitution and adapt it to suit its own circumstances. Committee members have continued to access the website whenever they require clarity on governance or legal issues, and have found NFP Law's resources easy to use with a lot of relevant and useful information.

Additionally, committee members have attended training delivered by NFP Law on the issues of governance and managing risk. They also completed the governance health check – a process whereby the organisation submits information via an online form and NFP Law layers provide tailored advice and recommendations focussing on good governance - and have continued to seek assistance from NFP Law on issues or governance gaps uncovered during the health check.

Overall, the assistance provided by NFP Law to Warrnambool Community Garden has helped its committee members build confidence to address legal and governance issues effectively and efficiently. Committee members now have a greater level of knowledge of the relevant policies and processes, and also know where to go to access NFP Law's resources and training if they require further advice. NFP Law's assistance has led to more strategic recruitment of committee members designed to bring certain expertise to the organisation, for example a committee member who has worked in Occupational Health and Safety and risk management previously. All of this knowledge will be beneficial as Warrnambool Community Garden continues to grow and develop in the future.

### **Tottenham Welfare Council**

Tottenham Welfare Council is a community organisation based in the small rural town of Tottenham in NSW. Its purpose is to promote the town and increase the welfare of the community – which they do by providing and maintaining low cost self-care accommodation to disadvantaged elderly members of the community through the operation of eight low-rent units. It also operates a day centre for elderly people in the area, and holds a number of other activities in collaboration with other Tottenham organisations. Tottenham Welfare Council receives the majority of their funding through fundraising by holding specific events each year, such as a community expo, and it partners with other NFPs for community fundraising purposes, such as to upgrade the local swimming pool.

Tottenham Welfare Council contacted Justice Connect NFP Law for assistance with making amendments to its constitution. After receiving initial telephone and email advice, it sent its draft constitution to an NFP Law lawyer who reviewed the document and provided follow-up advice on suggested changes. Whilst it initially only made contact regarding one element of the constitution, the advice it received led to being able to resolve a number of other issues it had not previously considered. Without the guidance of NFP Law, the Tottenham Welfare Council would likely have submitted a constitution that did not meet the legal requirements of an incorporated association with NSW Fair Trading or the Australian Charities and Not-for-profit Commission.

Being a small organisation in a remote area that relies on volunteers, the Tottenham Welfare Council lacked the legal expertise and resources to undertake the process alone. The assistance of a pro-bono lawyer, and the information they continue to access on the NFP Law website, has given it the knowledge and understanding of their requirements as a registered charity. This has allowed it to be more effective in how it operates and fundraises, therefore increasing the benefits it can deliver to the Tottenham community.

### **Volunteering WA**

Volunteering WA are the peak body for volunteers and volunteering in Western Australia. They connect thousands of volunteers to over 700 community organisations. Its mission is to lead, advance and celebrate volunteering in WA. Volunteering WA aims to build strong communities through volunteering and it provides a range of resources, services and support so that people in WA are aware of, and understand, the nature and scope of volunteer activity.

Volunteering WA's services include operating an online volunteer recruitment and referral platform; a volunteer records management platform; advice regarding the National Standards for hosting volunteers; connecting WA businesses through a corporate volunteering program; training sessions for volunteers and volunteer managers; advocacy and representation on issues facing volunteers; and working with academics and universities to support research programs and promote good volunteering practice.

NFP Law referred Volunteering WA to a Justice Connect member law firm for advice on both the enforceability of liability waivers in the volunteering sector and assistance drafting some information resources it could provide to volunteer organisations and volunteers.

Volunteering WA was able to share this information with organisations that use waivers, so they could be prepared for various situations that may arise. The assistance from the law firm gave Volunteering WA the confidence that the materials they are sharing with their members came from a credible source that have legal authority and expertise.

Additional assistance was provided by an NFP Law lawyer on the new Notifiable Data Breaches Scheme under the *Privacy Act 1988*. This advice and Not-for-profit Law's expertise provided Volunteering WA with answers they would not otherwise have had the resources to access.

# Appendix B: Case studies (2011)

Consultations were held with the following organisations as part of the previous Deloitte Access Economics study (2011):

- 10thousandgirl
- Cerebral Palsy Support Network
- Harm Reduction Victoria
- Ilbijerri Theatre Company
- Palliative Care Victoria
- Stroke Association of Victoria
- Travellers Aid Australia
- Victorian Council of Social Service
- Women's Information, Support and Housing in the North

The following case studies were also included in Deloitte Access Economics (2011). References to PILCH and PilchConnect in the case studies are to the service now known as NFP Law (as operated in Victoria).

## **Case study: Palliative Care Victoria and Cerebral Palsy Support Network**

Palliative Care Victoria is the peak body representing palliative care providers, consumers and families. They provide support, education, information and referrals for people suffering life-threatening illness and their families. Palliative Care Victoria aims to optimise quality of life for their consumers, empowering them to retain control of their lives through knowledge and information. This work can play an important role for the wellbeing of people suffering from life-threatening illness and their families.

PilchConnect has assisted Palliative Care Victoria by facilitating pro bono support for the review of a contract to carry out a comprehensive survey of palliative care services across Victoria regarding patient satisfaction. Palliative Care Victoria was required by the Victorian Department of Health to undertake the survey within a tight timeframe. Advice provided through the PilchConnect program was critical in helping ensure that the commercial risks of engaging a private survey company were effectively managed.

The survey was considered to provide an important contribution to building a better evidence base in the delivery of effective palliative care across the state, with Victoria being the first jurisdiction to conduct this form of assessment. The outcomes of the survey will inform future government policy and funding initiatives, in addition to having identified a need for greater support of carers for terminally ill patients. Advocacy by Palliative Care Victoria may lead to greater support for informal carers in the future (allowing them to return to, or increase, their workforce participation).

The Cerebral Palsy Support Network supports families with children with cerebral palsy in Victoria, providing services such as telephone advice, programs that encourage children to socialise and administrative support to families for the payment of carers (including a brokerage program to help families find carers). The brokerage program is particularly important as the rate of children with cerebral palsy is rising, making it difficult for many families to source carers. This program helps families to find an appropriate carer.

Similarly to Palliative Care Victoria, the support offered by the Cerebral Palsy Support Network to families of children with cerebral palsy acting as informal carers may help them to return to, or increase, their workforce participation.

The Cerebral Palsy Support Network sought assistance from PilchConnect to examine how the organisation was best structured going forward in light of its expanding support network. Assistance on governance matters was provided in the context of a new strategic direction being considered by the Board. Issues which required specialised legal advice centred on the nature of employment arrangements of carers and associated public funding arrangements which are attached to the individuals receiving care. The advice supported strategic decisions regarding the scope of service delivery and how to reduce potential legal risks.

#### **Case study: Victorian Council of Social Service (VCOSS)**

VCOSS is the peak body for the social and community services sector in Victoria. VCOSS has a strong, long-standing collaborative partnership with PilchConnect that includes: (i) working together on policy and law reform issues; (ii) VCOSS engaging PilchConnect to deliver training to NFPs in regional Victoria; and (iii) PilchConnect brokering pro bono assistance for low-cost VCOSS community guides. VCOSS advocates on behalf of and supports the community sector — in particular on behalf of its 600 members and other NFP organisations that it represents. It plays an important role in raising awareness of the existence, causes and effects of poverty and inequality, as well as advocating for the development of a sustainable, fair and equitable society. In particular, VCOSS helps to build the capacity of its member organisations and, through them, the capacity of people suffering from social disadvantage.

The resulting benefits for workforce productivity are potentially two-fold: (1) an increase in the productivity of the community sector through enhanced capacity; and (2) an increase in the productivity of the broader workforce through enhanced individual capacity as a result of services provided by the community sector.

VCOSS has partnered with PILCH to provide a range of regional governance training to the Victorian NFP sector. A focus of this training has provided broader professional development for the sector — an area where there is considered to be substantial scope for improvement, especially for rural and regional NFP organisations. These activities have recently been complemented by a practical employment manual for the sector which was developed in conjunction with PILCH. Providing general support services via appropriately targeted training and legal material has often lead to more detailed follow-up inquiries via the PilchConnect service.

#### **Case study: Harm Reduction Victoria and the Stroke Association of Victoria**

The mission of Harm Reduction Victoria is to advocate for the health of people who use drugs and to provide education and harm reduction services. Its members include people who currently use illicit drugs, former illicit drug users and people aiming to increase information and education about illicit drug use. Services provided by Harm Reduction Victoria include services that directly affect health outcomes, such as assistance to people suffering adverse effects of drugs at music festivals and overdose prevention programs. Other services that have an indirect effect on health outcomes include education, health promotion, research collaboration, advocacy, policy advice, raising community awareness and support and referral.

Harm Reduction Victoria was considering its options for relocating into new larger premises. Legal advice was sought through PilchConnect to help with this process, including engagement with landlords and meeting community consultation processes. It was considered that this advice was crucial for allowing the organisation to weigh up the various legal risks associated with the relocation such as the prospects of gaining community acceptance at the new site and the implications for its recurrent funding base.

The Stroke Association of Victoria provides peer support for survivors of stroke and their families by establishing support groups around Victoria. Services provided include provision of support counselling, guidance and referral; provision of respite gateways for stroke victims; participation in state-wide education on all aspects of living with stroke; and the promotion and encouragement of rehabilitation for stroke survivors. This suite of services will increase wellbeing of stroke survivors and their families as well as facilitating certain improved health outcomes, for example by facilitating rehabilitation.

The Stroke Association was seeking to engage an additional officer to undertake outreach work in the community. As a very small NFP organisation, advice was sought from PilchConnect regarding its obligations as an employer and to prepare relevant employment contracts. Without such direct assistance, it was considered that the additional officer may not have been engaged, or that the engagement may have raised new legal risks for the organisation. The advice provided a level of comfort for the Board that allowed them to have confidence in the new employment arrangements.

#### **Case study: Travellers Aid Australia and Women's Information, Support and Housing in the North (WISHIN)**

Travellers Aid Australia (TAA) assists with mobility needs of people experiencing disadvantage, including those with mobility needs or people in crisis or emergency shelters. This assistance predominantly occurs for travel within Victoria, but also includes travel outside the State. Services provided by TAA include assistance to people travelling to Melbourne for medical treatment; provision of a secure online travel booking service (currently in its pilot stage); free personal care to travellers with a disability at Flinders Street and Southern Cross Stations and free buggy transport or personal guidance assistance to seniors and people with mobility issues at Southern Cross Station. In 2010, approximately 10,000 clients were assisted through TAA's emergency relief program alone.

The services provided by TAA help to reduce stress associated with travel. In particular, the online booking service has improved efficiency and created better pathways for clients. As an organisation that is partly funded by the Victorian Government, this has resulted in a less bureaucratic process for clients and a more effective provision of this social service.

TAA received pro bono legal advice, brokered through PilchConnect, in relation to the pilot of its online travel booking service. The advice covered areas such as tendering requirements and protection of client information. TAA and the pro bono legal firm have had an ongoing relationship over the length of the piloting phase. During discussions, TAA emphasised they would not have been able to run the pilot had they not received pro bono legal assistance through PilchConnect (due to cost restraints).

They also highlighted other benefits such as the timely nature of PilchConnect's service and the effectiveness of the match with the pro bono legal firm, who were described as 'very accessible'. WISHIN, on the other hand, may help to reduce the long-term cost of social services by creating sustained improved outcomes for its clients, thereby potentially decreasing reliance on social service in the future. WISHIN works in the Darebin and Moreland areas to ensure provision of safe, secure and affordable housing for all women, with or without accompanying children. This includes provision of housing, support and outreach services, as well as a broader goal of working towards social change.

A recent example of the assistance provided to WISHIN through the PilchConnect program involves dealing with court issues as they pertain to their direct clients. Many individuals supported by WISHIN are 'high risk' and sometimes are caught up in the justice system. PilchConnect has helped WISHIN effectively deal with court requests for client information, including by ensuring that client privacy issues were sufficiently protected in accordance with the law. This advice has often been needed at short notice to meet legal proceeding requirements.

#### **Case study: 10thousandgirl Campaign**

The 10thousandgirl Campaign aims to help (10,000) young Australian women by improving their financial literacy and inspiring them to pursue their life plan with confidence and independence backed by financial security. 10thousandgirl conducts a range of workshops focused on creating life goals, building financial skills and security, and building a network. Not only do the workshops conducted by 10thousandgirl provide direct education opportunities for young women, but they indirectly increase the ability of participants to access formal education in the future as they receive assistance to plan for their life goals.

10thousandgirl sought assistance through PilchConnect to constitute their organisation and put in place an effective governance structure. This matter was not straightforward and specialised advice was brokered through a private sector legal provider on a pro bono basis. A core aspect of the advice

centred on ensuring that 10thousandgirl could access various tax concessions, enabling the organisation to diversify and strengthen its funding base and rapidly expand its program delivery. Under this more sustainable footing, the 10thousandgirl campaign has been rolled out across capital cities and many key regional centres in Victoria.

#### **Case study: Ilbijerri Theatre Company**

Ilbijerri Theatre Company is Victoria's only Indigenous Theatre company and is the oldest Indigenous Theatre company in Australia. Ilbijerri tells Indigenous stories, by initiating and developing performances in collaboration with the community and artists. The work performed by Ilbijerri teaches Indigenous and non-Indigenous audiences about the need for family, history and heritage and explores a range of issues from a uniquely Indigenous perspective. Undoubtedly, Ilbijerri plays an important role in deepening Indigenous cultural values for all Australians.

As an extension of its core theatre productions, Ilbijerri also undertakes specially commissioned productions for government aimed at raising awareness of Indigenous health issues such as reducing risks of contracting hepatitis. These tailored productions are then taken to various communities.

A major aspect of Ilbijerri's mission within Australia's broader creative landscape is to employ Indigenous creative artists and directors. To help ensure that this mandate can be met, especially in the case that Ilbijerri seeks to expand its operations, advice was sought through the PilchConnect program concerning the application of the Victorian Equal Opportunity Act.

# Appendix C: Standard economic contribution methodology

Justice Connect NFP Law’s economic contributions assessment is intended to quantify measures such as value added and employment associated with the economic entity, in a historical reference year. The economic contribution is a measure of the value of production by Justice Connect NFP Law.

In this study, the total economic contribution of NFP Law to Australia represents the sum of their direct and indirect contributions to these areas:

- The direct economic contribution of the legal services is the value added created by labour and capital inputs employed directly by Justice Connect.
- The indirect contribution is a measure of the demand for goods and services produced in other sectors of the economy as a result of the direct economic activity from Justice Connect. The size of this flow-on activity is dictated by the extent of linkages with other supplier sectors of the economy. Estimation of the indirect contribution is undertaken in an IO framework using Australian Bureau of Statistics (ABS) IO tables.

All direct, indirect and total contributions are reported as value added and employment (with these terms defined in Table C1).

Table C1: Definitions of economic contribution estimates

Estimate	Definition
Value-added	Value added measures the value of output (i.e. goods and services) generated by the entity’s factors of production (i.e. labour and capital) as measured in the income to those factors of production. The sum of value added across all entities in the economy equals gross domestic product. Given the relationship to GDP, the value added measure can be thought of as the increased contribution to welfare.
Employment (FTE)	Employment is a fundamentally different measure of activity to those above. It measures the number of workers (measured in full-time equivalent terms) that are employed by the entity, rather than the value of the workers’ output.
Direct economic contribution	The direct economic contribution is a representation of the flow from labour and capital committed in the economic activity directly associated with Justice Connect in a particular region.
Indirect economic contribution	The indirect contribution is a measure of the demand for goods and services produced in other sectors as a result of demand generated by Justice Connect activity in a particular region. Intermediate expenditure for goods and services sourced from Australia, Victoria, or NSW was either attributed to a particular industry based on whether a line item roughly corresponded to that industry, with the remainder completely attributed to the Professional, Scientific and Technical Services industry.
Total economic contribution	The total economic contribution to the economy is the sum of the direct and indirect economic contributions.

Source: Deloitte Access Economics

The economic contribution assessment was informed by the financial data provided by Justice Connect.

# Appendix D: Types of legal matters

Type of legal matter*	VIC	NSW	QLD	WA	SA	ACT	TAS	NT	UNKNOWN	INT'L	TOTAL
Advertising & Sponsor	1										1
Amalgamation & Merger	8	3									11
Auspice		1									1
Changing Structure	2	2		1							5
Charity (Income, FBT, GST)	1	1							1		3
Charity laws	1	2									3
Charity Registration	6	9	2	1	1	1		1			21
Constituent Documents	29	19	1		3	2					54
Defamation	1										1
Events		1									1
Government Funding	1	4					1				6
Incorporation	4	6			1	1					12
Internal		1									1
JV or Partnership		1									1
Leases	6	5				1					12
Legal Structure	10	10	1	1	1	4			2		29
Meetings	4	5	2								11
Members	6	1							1		8
MOU	4	4									8

Other laws	5	10	1							16	
Raffles & Lotteries	1					1				2	
Risk Management	2	1								3	
Social Enterprise	3	7								10	
Social Media	1									1	
Sub-Contract	1	1								2	
IP	13	6	3	1						23	
Insurance	14	4	2	2	1		1			24	
Governance	158	86	10	10	7	5	6	1	6	289	
Fundraising	21	14	2	1		5			1	44	
Financial matters	14	12	1			1			1	29	
Fair Work Act Employer Compliance				1						1	
Employees	28	31	1	1		1	1	1		64	
Discrimination & Harassment	3	1								4	
Contracts	22	26	1	1		1			1	52	
Incorporation laws	15	10	2		2		1			30	
Records & Documents	2	5	1							8	
Internal disputes	46	74	3	2	1				5	131	
OH&S	7	5								12	
Other	69	49	12	3	1	5	1	1	2	143	
Privacy	18	9	1	1	1	1				31	
Property	9	3					1			13	
Starting an NFP	47	59	23	12	9	5	5	2	29	7	198
Winding Up	11	10	1	2		1					25
DGR	42	29	5	2	2	6	0	2			88
Tax laws	9	8									17

Volunteers	13	18	1	1	1	0	1	0	5		40
Working with other organisations	10	6		1						1	18
Live chat	9	9	1	4	2				5		30
<b>Total clients</b>	<b>677</b>	<b>568</b>	<b>77</b>	<b>48</b>	<b>33</b>	<b>41</b>	<b>18</b>	<b>8</b>	<b>59</b>	<b>8</b>	<b>1537</b>

\*Only includes organisations that received individual legal advice via NFP Law

# Appendix E: Advocacy case studies

This section outlines three recent examples of advocacy work undertaken by NFP Law. These examples have been provided by NFP Law for the purpose of this report. It is a limitation of the methodology that it has not been possible to attribute a monetary value to the advocacy work when estimating of the economic contribution of NFP Law.

In the period of the 2017-2018 financial year, NFP Law made 11 law reform submissions (available at <https://www.nfplaw.org.au/lawreform> except where they have been sought or made on a confidential basis).

## Why does NFP Law undertake advocacy?

NFP Law's advocacy work seeks to address systemic issues, with the aim to achieve an improved legal and policy framework for NFPs.

NFP Law's work with a diverse range of NFPs over the last 10 years provides a rich evidence-base for explaining the practical implications for NFPs of existing laws and the (often unintended) consequences of proposed laws.

With improved and streamlined legal and policy frameworks, NFPs can better focus their time and energy on fulfilling their purposes to help achieve their mission.

## Advocacy priorities in 2017-2018

Each year NFP Law sets a maximum of three overarching advocacy goals to help with the prioritisation of its work. The goals in 2017-2018 were:

1. To reform Australia's out-for-date, complex and inconsistent fundraising law regime by providing clearer protections for donors while reducing red tape for charities and other NFPs
2. To work for improved legal structures for NFP organisations and social enterprises
3. To respond to government reform proposals that impact Australia's NFP sector to ensure the legal and policy frameworks the sector operates under are improved and streamlined, enabling NFPs to better focus their time and energy on achieving their missions.

## #fixfundraising campaign for a modern and nationally consistent regime for fundraising activity, helping to support the financial sustainability of NFPs

### The problem

Although demand for the services is growing, government funding is decreasing. The motivation of NFPs to support as many people as possible often means they spend considerable time and effort raising funds from the public. However, NFPs are forced to waste significant amounts of time and money to meet outdated and fragmented fundraising laws that differ considerably across Australia.

The fundraising regime wastes more than \$15 million every year for charities alone (see ACNC "Cutting Red Tape Report", Deloitte Access Economics 2016

<http://www.acnc.gov.au/ACNC/ACNC/Publications/Reports/CuttingRedTape.aspx>)

Across Australia's seven different fundraising regimes, there is variation in the requirements at each stage: from when and if a fundraising licence is needed; to how long a licence is valid; right through to what must be reported and when.

For smaller groups, it can be particularly difficult to navigate these complex laws. For larger ones (including many household names), resources are redirected from service delivery to compliance, with spending on fundraising 'admin' a significant deterrent to public giving.

The current regimes are outdated and do not effectively support fundraising across state and territory borders, or through digital platforms. A 'donate' button on the website of a small charity can trigger obligations to register, report and pay fees in several states, even if the charitable activities only occur locally.

These inefficiencies have a flow-on impact to the broader NFP sector, the community and to the economy. Because the regime is so complicated it results in both accidental and deliberate non-compliance and minimal resources are directed to its enforcement. The current regime creates risks for donors, losses to productivity, barriers to innovation, and negatively impacts the sector's sustainability and growth.

### **NFP Law leadership**

In 2016, after numerous government and independent inquiries calling for change but nothing happening, NFP Law led the formation of a powerful coalition of sector and professional peak bodies under the banner of "#fixfundraising". The coalition includes the Australian Institute of Company Directors, Australian Council of Social Services, Governance Institute of Australia, Community Council of Australia, Chartered Accountants Australia & NZ, Philanthropy Australia and the Public Fundraising Regulatory Association. The Law Council of Australia has also publically support the campaign along with by more than 235 organisations and individuals representing more than 570 charities (many household names as well as very small groups), 85 legal centres and more than 3,750,000 individuals: see the #fixfundraising [supporter's page](#).

The campaign coalition have an agreed policy solution that NFP Law has steered with support of expert pro bono legal advice from Norman O'Bryan AM SC and Hebert Smith Freehills. NFP Law is the lead media contact.

The proposal is for:

- amendments to the Australian Consumer Law (ACL) to ensure its application to fundraising activities for and on behalf of charities (and other NFPs) is clear and broad;
- urging the repeal of existing fragmented State and ACT fundraising laws; and
- the ACL regulators, the Australian Charities and Not-for-profits Commission (ACNC), self-regulatory bodies and sector intermediaries to draft and consult publically on a core mandatory code to be enforced under the Australian Consumer Law multi-regulatory framework.

### **What has been achieved so far?**

This is a difficult, long-term national campaign. Independent calls for harmonising and updating Australia's fundraising laws date back to an Industry Commission Report in 1995 and the issue has been on, then off, the COAG agenda since then. The solution (whatever its exact form) involves law change by seven different jurisdictions and the support of the Commonwealth government.

With that context in mind, the #fixfundraising campaign has already had some considerable success. It has:

- coalesced support around an implementable cost-neutral policy solution and raised the profile of the issue with policy makers
- led the ACL Regulators to issue (for the first time) joint Guidance for charities on fundraising activities <https://www.accc.gov.au/publications/guide-to-the-acl-for-charities-not-for-profits-fundraisers>. NFP Law had extensive input into the wording of this guidance, following invitation only stakeholder engagement process by ACL regulators. The publication of the guidance is significant of itself because there had been much confusion in sector and even within government and peak bodies about the ACL and fundraising – ie, if it applied at all and to what extent
- had the ACNC publically (including in written submissions) support its policy approach, even though the ACCC have opposed it
- led to the establishment (June 2018) of a Select Senate Committee Inquiry into Charitable Fundraising in the 21st Century
- got the issue back on the relevant intergovernmental agenda: the issue was discussed at the August 2017 Melbourne meeting of Consumer Law Ministers (CLAANZ) which resolved to issue new

regulator guidance (see above) and the review the matter in 2018-19, with the matter on the agenda for their next meeting in October 2018.

### Eliminating duplicative reporting for ACT charities

#### The problem

In April 2017, NFP Law provided a response to the ACT Government's *Red Tape Reduction Legislation Amendment Bill 2017* (the Bill). The Bill sought to amend the *Associations Incorporation Act 1991* (ACT) and the *Charitable Collections Act 2003* (ACT) to exempt charities registered with the ACNC from certain regulatory requirements in the ACT that are covered by Commonwealth regulation.

Overall NFP Law commended the ACT government for addressing the issue of double-reporting for charities registered with ACNC – which it had called for previously. However, when the Bill was tabled before the ACT Parliament, NFP Law identified (where no-else had) that the Bill would not deliver on this intention because of some poor drafting, such that the amendment would have caused confusion (more red tape, not less).

As a result of follow up by NFP Law to raise this concern, the ACT government moved an amendment to its own Bill to address the issue.

#### Impact of this successful advocacy?

Ensuring this seemingly small amendment was made meant that the all ACT-based charities incorporated as associations are now able to lodge their annual report once to the ACNC (not twice ie, to the ACNC and the ACT regulator, as was previously the case). This saves time and money (including fees previously payable to the ACT regulator). ACNC data shows there are over 1,100 charities based in the ACT, and as incorporated association is the most common legal form for charities, this means many hundreds of charities benefitted from this advocacy.

### Successfully opposing new ASIC fee

NFP Law provided a submission to the *ASIC Supervisory Cost Recovery Levy Amendment (Enhancements) Regulations* in May 2018, outlining concerns relating to a proposed new cost-recovery mechanism which would have imposed an unfair burden on ACNC registered charities incorporated as companies limited by guarantee (a subset of unlisted public companies). The proposed new fee was \$321 annually (although that could have increased over time).

NFP Law opposed this new fee on the basis that it was unreasonable to charge a flat levy where little, if any, administration is undertaken by ASIC (this work now rests with the ACNC). They argued that it was not a legitimate form of cost recovery, which was the basis for the Regulations. By way of contrast, if specific regulatory work is undertaken by ASIC (eg, a change of name), NFP Law accepted it was appropriate for a modest fee-for-service to be charged (these fees were also increased recently and NFP Law did not oppose them).

NFP Law had, prior to this submission proactively contacted officials in Treasury to raise concern about this issue and also garnered other groups (such as the Law Council of Australia) to put in submissions to the same effect. NFP Law also wrote to the relevant Ministers.

The NFP Law submission was successful and charities have been excluded from payment of the new levy by ASIC. There was a tweet from the Federal Opposition Minister for Charities and Not-for-profits congratulating NFP Law on its work on this issue.

This is an example where a change could well have gone under the radar – with it being too late once the fee was levied in 2019. The majority of organisations in this category may not have been aware that this levy was even proposed.

#### Impact of this successful advocacy?

There are at least 7,800 companies limited by guarantee so that would have been \$2.5mil paid in fees for no additional regulatory work and a loss of funds that could be directed to charitable activities. Very few charitable companies limited by guarantee are large public companies – ACNC data shows most charities have an annual turnover of less than \$50,000 and operate with no paid staff so even modest fees bite.

# Limitation of our work

## General use restriction

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