

Submission from Waverley Council

Thursday 17 April 2003



Submission to: Mr Peter Hallahan
Secretary
Senate Legal and Constitutional Committee
Room S1.61, Parliament House
Canberra ACT 2600
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**Inquiry into the provision of the
Australian Human Rights Commission Legislation Bill 2003**

Waverley Council welcomes the opportunity to contribute to the above inquiry.

The Local Government Act requires Councils to consider the needs of seven particular groups in their Social Plan. These include Women, people with disabilities, Aboriginal and Torres Strait Islander People and People from Culturally and Linguistically Diverse backgrounds.

Waverley Council's Social Plan was developed after extensive consultation with its residents and with individual target groups. These consultations indicated clearly that while target groups may have some needs similar to the general population, these are intensified when appropriate, specialised services are not available. Further, these groups have specific needs that require good knowledge, understanding, empathy and special skills to address them.

Waverley Council provides a direct service to adults with an intellectual disability, the Waverley Community Living Project (WCLP). While many groups need low cost housing for example, the need for this group is exacerbated by their disability and the lack of information about their issues by the general community. Specialist counselling services were also identified as a need because mainstream generalist services lack the skills to work with issues with this group.

The Australian Bureau of Statistics figures from 2001 indicated that the Waverley population includes approximately 20% of people from Culturally and Linguistically Diverse backgrounds.

While the largest group are Russian speakers, many small groups and individuals add to the 43 linguistic groups that exist in Waverley. Their settlement needs extend further than the needs of the general community. This provides a challenge to mainstream services, increased demand for local government support, specialist services, resources and advocacy.

The Council's Multicultural Policy, and its Aboriginal and Torres Strait Islanders Access & Equity Policy have helped make the provision of Council's services more culturally and linguistically appropriate. Inclusion of those groups in all the services and programs of Council as well as in all levels of Australian life is a priority for Council.

With this background we submit our comments on the abolition of the positions of specialist Commissioners and other proposed changes to the Human Rights and Equal Opportunity Commission (HREOC).

The Bill provides for the restructure of HREOC, its renaming to the Australian Human Rights Commission, and the creation of an executive structure consisting of a President and three Human Rights Commissioners.

The replacement of the existing specialist Commissioners (Aboriginal and Torres Strait Islander Social Justice, Race Discrimination, Sex Discrimination, Disability Discrimination and Human Rights Commissioner) by a President and three generalist Human Rights Commissioners, who will not be required to have significant experience in these particular areas, represents a step backwards and is out of step with the community's understanding of how the needs of more vulnerable groups are best addressed.

The position of the Aboriginal and Torres Strait Islander's Social Justice Commissioner was created in 1992, largely as a result of the Royal Commission into Aboriginal Deaths in Custody, and HREOC's National Inquiry into Racist Violence. It has made a great difference in understanding and promoting respect for Aboriginal and Torres Strait Islander's human rights. However, there is a great need to continue monitoring criminal justice processes, care and protection systems, life expectancy and measure improvements in health of this group. This requires specialist knowledge and skills, which the current role of the Commissioner entails. Social planning and Census data for Waverley, and the wider community, indicates that there is not sufficient progress in addressing the marginalisation of Indigenous peoples. Local Indigenous people have lower incomes, higher rates of unemployment and lower standards of education than the non-indigenous population.

The expression **human rights – is everyone's responsibility** is pure rhetoric. Mainstreaming services for the most needy groups in our society has proven unsuccessful in many areas of direct service delivery. The role of the current Commission in education, information provision and particularly advocacy has received significant community support since 1986.

The Bill requires the Commission to obtain the Attorney-General's consent before exercising the power to seek leave to intervene in court proceedings..... and removes HREOC's power to recommend the payment of damages or compensation following inquiries into certain types of complaints.

Council feels that this changed role of the Commission and its restriction to intervene in court proceedings without the Attorney General's consent, undermines the professionalism and the independence of the Commission. HREOC has intervened in 35 cases before Australian Courts and Tribunals with leave to appear being granted in every case by the relevant court. This indicates the Commission's use of this power has been appropriate and independent. The attorney General would have the ability to refuse HREOC's intervention even where the government is a party to the litigation.

The loss of the specialist Human Rights Commissioner, a role responsible for monitoring and promoting Australia's compliance with its human rights obligations, is of great concern for the future of our democracy. There is no guarantee that within the restructuring, the Commission

would devote scarce resources to human rights issues. Competition for scarce resources by marginalised groups surely defeats the purpose of the Commission as an advocate for these people.

Waverley Council recommends reconsideration of all respects of the provisions of the proposed Bill and further recommends the enhancement of the role of the specialist commissioners within the current structure.