



2020



The University of Newcastle Legal Centre

OLDER PERSONS

LEGAL CLINIC

ANNUAL REPORT





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The Older Persons Legal Clinic at the University of Newcastle respectfully acknowledges the traditional custodians of the lands on which it is located: the people of the Awabakal, Worimi and Darkinjung nations.

DEAN'S REPORT

We began our Older Persons Legal Clinic in September 2019 and have built upon our early activities at the University of Newcastle Legal Centre which has resulted in significant change and growth. Our increasing range of services are supporting older people with legal issues that might otherwise cause them stress, concern and, in some cases, may have dire consequences with potential impacts on housing, health care and financial arrangements. In addition, we are also focussed on dispute prevention and one significant initiative is related to our work on wills and guardianship arrangements, which has included an outreach clinic focusing on older Indigenous people. This is combined with our daily legal work, which supports a diverse group of older people with a particular focus on Newcastle, the surrounding regions, the Central Coast and Gosford.

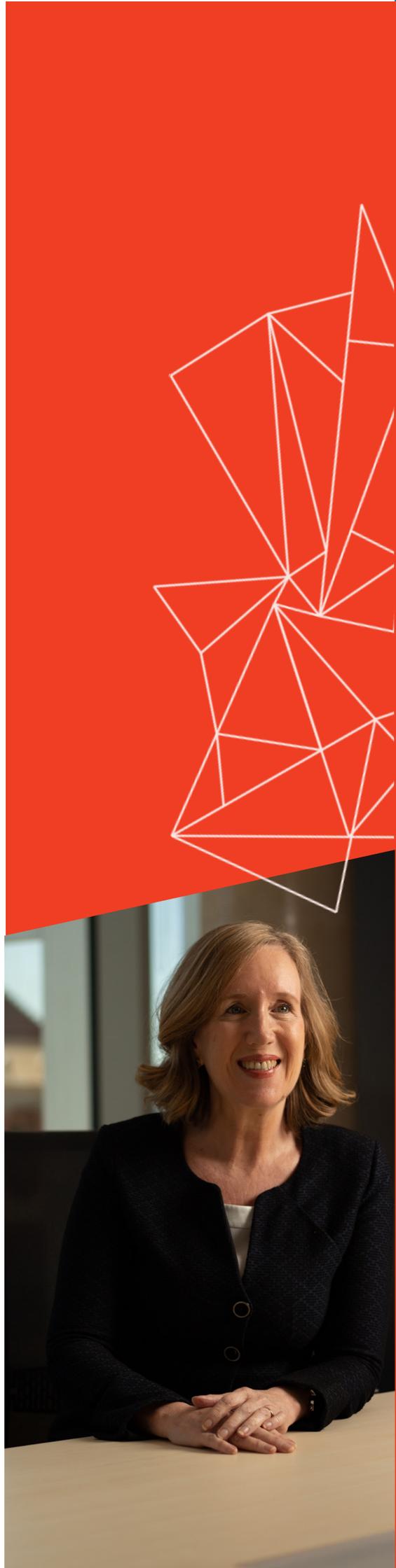
Our work has resulted in the provision of much needed advice and support to people in a range of challenging circumstances and has included pop up clinics, as well as the provision of remote and outreach services. The gratitude expressed by clients has been humbling and our staff and students have shared in some incredibly positive experiences. Our students have been enriched by the knowledge and expertise of our Legal Centre team of lawyers and have also been inspired by their kindness and commitment to access to justice. These experiences will continue to shape the lawyers of the future and assist them to manage issues in a sensitive and client-focussed way.

All of this work has been made possible as a result of close collaboration with various organisations that are actively referring older people to our Clinic. Client numbers have increased as a result of active engagement with and support across these broad communities. We are particularly grateful to our Advisory Committee members, who help us ensure that our work is relevant and appropriate. We are also very proud of our team of lawyers and students, who each bring sensitivity and professionalism to their work with older clients at what can be a very uncertain and challenging time.

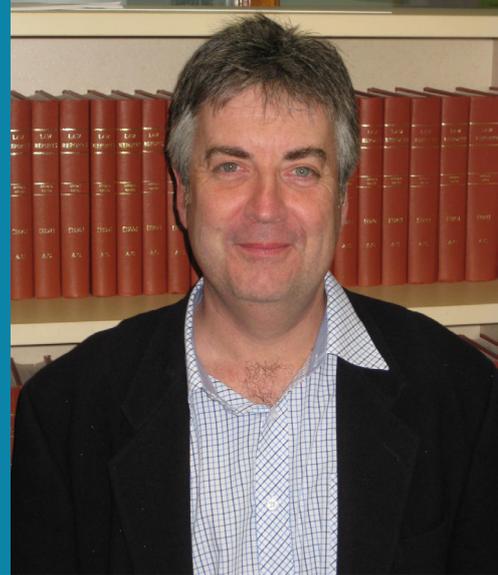
I am very pleased to introduce our first Older Persons Legal Clinic Annual Report that sets out some of our work over the past year.

Tania Sourdin

Dean, Newcastle Law School



DIRECTOR'S REPORT



The University of Newcastle Legal Centre was successful in a highly competitive grant round in 2019 and was awarded a three-year \$696,000 NSW State Government grant to conduct an Older Persons Legal Clinic. The Clinic's vision is to increase access to justice for older people and improve their legal outcomes.

Two recent Government inquiries into elder abuse identified a significant need to enhance legal practitioners' skills in the prevention of and responses to financial abuse. The inquiries found limited access to legal services contributed to the vulnerability of older people. To address this, we now operate our Clinic in both the Newcastle and the Central Coast regions where there is a significantly higher proportion of older people compared to other areas of NSW.

The Older Persons Legal Clinic commenced its operations in September 2019. It is co-located with the University of Newcastle Legal Centre at NU Space in the Newcastle CBD and conducts a 'pop up' clinic one day a week on the Central Coast at the Australian Taxation Office in Gosford's CBD. From March 2020 when COVID 19 hit, the pop-up clinic on the Central Coast transitioned to a telephone advice service.

The Clinic has provided legal advice, representation and community education to a large number of older persons aged 60 years and over and Indigenous persons aged 50 years and over during the past year. It has seen a diverse range of legal matters including wills, powers of attorney, enduring guardianship, mental health law, financial abuse, social security, family law,

consumer matters, retirement village cases, employment issues, neighbourhood disputes and tenancy.

The Clinic extends the highly successful work of the University of Newcastle Legal Centre which has provided free legal services since 1993. The Clinic provides law students with a rich workplace experience during their study, placing them within the legal profession, and connecting them with private and public sector legal professionals, courts, and tribunals. The Clinic also ensures students are aware of the access to justice issues for marginalised older persons and provides the opportunity to be inspired by local practitioners who work to improve legal outcomes and access to justice for those in need.

I wish to thank the NSW State Government for its strong support of the Clinic, Legal Aid for its ongoing assistance, ATO for its commitment to the Clinic, Committee members for their vision and strategic direction, Professor Tania Sourdin for her leadership, and Legal Centre staff and students for their service to the Clinic.

Shaun McCarthy

Director, University of Newcastle Legal Centre

CHAIR'S REPORT

This is the first Annual Report of the Older Persons Legal Clinic, based within the University of Newcastle Legal Centre.

This Clinic came about as a result of Newcastle Law School and its Legal Centre successfully obtaining a grant from the New South Wales State Government to conduct a service for older persons.

The Clinic commenced in September 2019 and has moved from strength to strength.

Unexpectedly, the commencement of the Clinic was soon followed by the COVID-19 pandemic. This has had a number of impacts on the conduct and operation of the Clinic. More importantly, that pandemic has impacted very adversely on older persons in the community. This group has become, as a result, more isolated and vulnerable.

This reinforces the importance of having a dedicated Clinic to provide timely and accessible legal advice to older persons.

I acknowledge the significant contribution over the past twelve months of the Advisory Committee and of Newcastle Law School in establishing, and then conducting, the Older Persons Legal Clinic.

May the Clinic's various successes continue.

Warwick Tregilgas

Barrister, Newcastle Chambers



SOLICITOR'S REPORT

I am pleased to report that the services provided by the Older Persons Legal Clinic have been warmly welcomed and well-utilised by community organisations and individuals over the past year.

The Clinic has provided legal advice and assistance on a variety of issues including retirement village disputes, neighbour disputes, apprehended violence, Government housing disputes, motor vehicle accidents, family provision claims, and family law. The Clinic has assisted many clients with the preparation of wills, powers of attorney and enduring guardian documents, and advance health directives. These documents have, where possible, been prepared by students as part of their training supervised by a solicitor.

The involvement of students in the Clinic is a unique experience for them to see and understand the issues that people face as they become more vulnerable as they age. In particular, students gain an awareness of the possibility of financial abuse from family members and non-family members taking advantage of an older person in a vulnerable position. This exposure gives students invaluable insight and equips them well to recognise possible financial abuse.

Prior to the COVID-19 restrictions, the Clinic was involved in a range of community initiatives. As circumstances changed, the Clinic moved to operate as a telephone advice service with clients coming into the University only to sign documents.

Unfortunately, also as a result of the COVID-19 situation, other services have been restricted such as our ability to attend community groups for community legal education and outreach, and has also stopped our attendance at Seniors Expos. In our first 6 months of operation,

however, we were able to reach out to more people and provide information at such events. In particular, our ability to service our outreach clinic at the ATO offices in Gosford became very limited.

However, we have been able to maintain good numbers of people utilising this service by promoting the Clinic through radio interviews, print media, direct stakeholder contact and attending Zoom meetings with stakeholders.

All at the Clinic have soldiered on through this COVID-19 environment and have assisted many vulnerable older people who would not otherwise have known what to do and where to go for assistance.

Margot McAlary

Legal Practitioner, OPLC



AIMS AND OBJECTIVES

As part of the University of Newcastle Legal Centre, the Older Persons Legal Clinic is committed to an ethos of social justice and promoting access to and reform of the legal system. The Clinic aims to provide high quality and accessible legal services to older persons aged over 60 years and to Indigenous people aged over 50 years, their carers and families.

The aims and objectives of University of Newcastle Legal Centre are as follows:

Access to Justice and Service of the Community

1. To provide advice, assistance, advocacy and representation for persons who are marginalised and disadvantaged in dealing with the legal system.
2. To provide advice, assistance, advocacy and representation for older persons, their carers and families, as well as devising methods and strategies to combat elder abuse.
3. To undertake public interest advocacy where there has been a miscarriage of justice or other serious failure in the administration of justice or a serious wrong.
4. To promote access to justice for persons who are disadvantaged in dealing with the legal system by empowering persons with legal information, delivering community legal education seminars, and making contributions to law reform and government inquiries.
5. To provide holistic services to the community including partnering with community organisations, Government departments and University disciplines.

Clinical Legal Education

1. To provide all law students with high quality clinical legal education. All students are guaranteed an intensive professional legal placement at the Legal Centre and will work with clients who face disadvantage in dealing with the legal system.
2. To engage students effectively in client casework, engender deep learning about the law, enhance lawyering skills and promote excellent lawyering values such as an ethos of social justice.
3. To actively pursue applied research in order to address systemic legal issues and to facilitate access to the legal system.



LAW REFORM

The Older Persons Legal Clinic is committed to law reform and activities contributing to policy development.

This year, the Clinic has been an active member of the Hunter Elder Abuse Reference Group and hosted a series of meetings with relevant stakeholders to devise strategies to combat elder financial abuse. Participants included banks, police, lawyers, ACAT workers, health care workers and geriatricians.



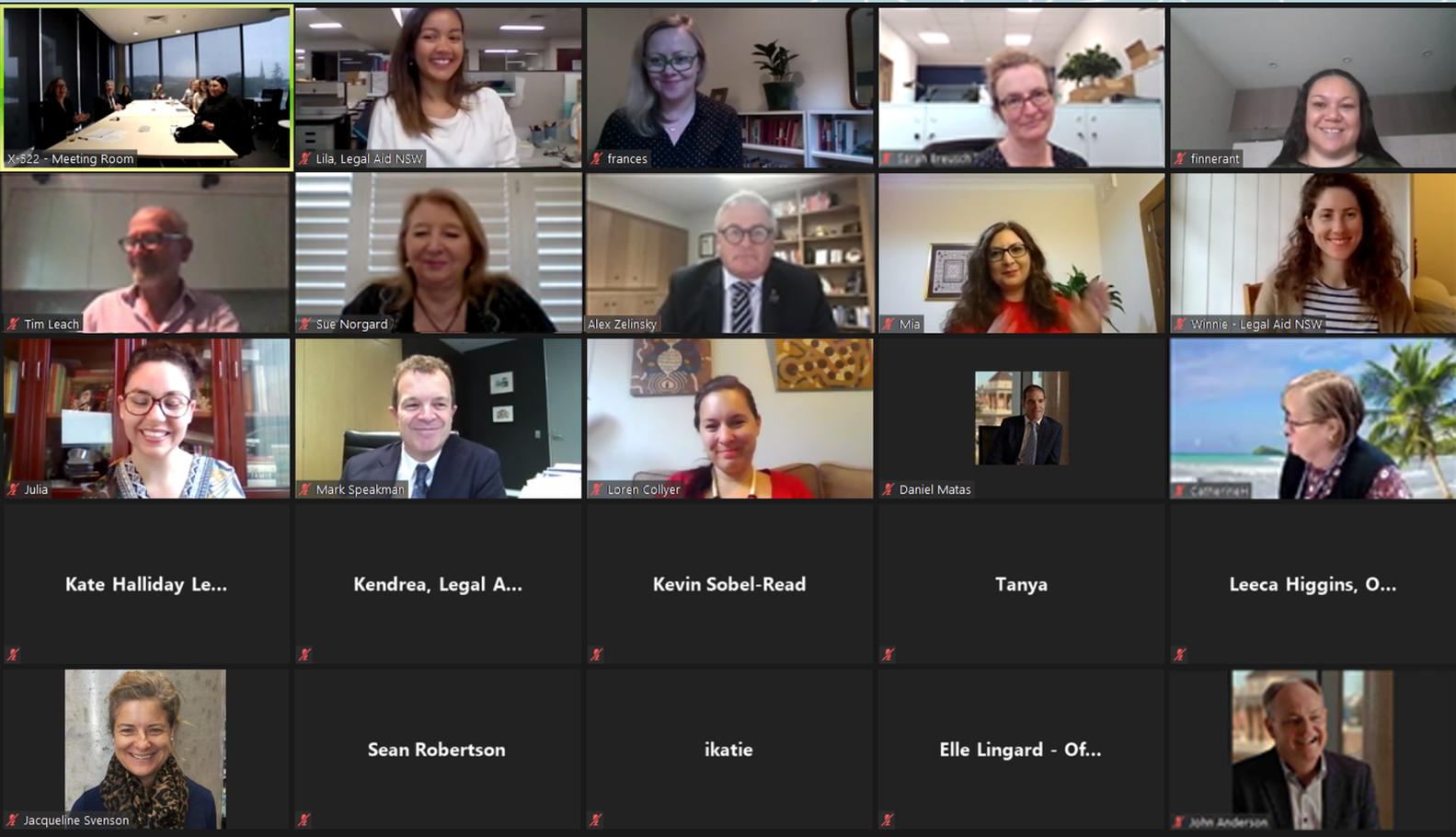
The Clinic hosted a Capacity Symposium in March 2020 at NUspace. The Symposium was oversubscribed with around 100 persons attending including ACAT workers, nurses, occupational therapists, health care professionals, social workers and lawyers. The Symposium featured presentations on assessing capacity, elder financial abuse and a panel workshop dealing with approaches to supporting financially vulnerable members of the community.

Capacity Symposium at NUspace, March 2020

The Legal Centre made various law reform submissions including:

- Submission to the NSW Law Reform Commission on access to digital assets after death and incapacity
- Submission to the Commonwealth Senate Inquiry into Centrelink's Compliance Program (Robodebt)

CLINIC LAUNCH



The official Clinic launch on 5 November 2020 (delayed by COVID-19) was held via zoom with NSW Attorney General Mark Speakman QC MP opening the clinic. The launch was attended by the University of Newcastle Vice-Chancellor Alex Zelinsky.

Law on the Beach

Our annual Law on the Beach drop-in clinic held at Merewether Surf Club was again a great success in January and February this year. Margot McAlary was a welcome addition to the team of supervising solicitors, offering expertise to those clients who presented with issues relevant to older persons. While this clinic tends to attract a younger demographic given the relaxed setting, there were dozens of older people together with their families or carers who took advantage of our new focus area during the summer months.



Law students at Law on the Beach, Merewether Surf Club, 2020

Aboriginal Wills Clinic

A very successful Aboriginal Wills Outreach Clinic was held in October 2019 at NUspace for Aboriginal and Torres Strait Islander community members. A total of 22 individuals attended the Clinic to have their wills drafted and to receive assistance with other planning ahead documents. Students undertaking Newcastle Law School's clinical program had the opportunity to further enhance their lawyering skills by staffing the clinic and working with Indigenous clients. Feedback received was extremely positive and further sessions have been planned to build on this success.



Aboriginal Wills Clinic, 2019

Gosford Outreach Clinic

The Clinic has offered 'pop up' services one day a week at the Australian Taxation Office (ATO) in Gosford. This is a much needed addition to the Central Coast area, which is home to a particularly high proportion of older people: 21 per cent of the population on the Central Coast are aged over 65, compared with 16.3 per cent of the NSW population and 15.7 per cent of Australia's total population. Thanks to the support of the ATO, more individuals on the Central Coast have been able to access legal services in a timely and efficient manner.

Outreach Activities

Prior to the COVID-19 restrictions, the Clinic was involved in a range of stakeholder events and community initiatives throughout the year, including:

- **Seniors Expo, Belmont**
- **Charlestown Interagency meetings**
- **Central Coast Council Seniors Expo, Wyong Racecourse**
- **Co-design Workshop hosted by Legal Aid, Gosford**
- **Client appointments at the Calvary Mater Hospital**
- **Elder Abuse Reference Committee**
- **Office of Jodie Harrison MP, Charlestown**

Spotlight: Supporting vulnerable clients during COVID-19

The Older Persons Legal Clinic assisted a person who was a terminally ill patient at the Mater Hospital. The person is part of a well-known and respected local Aboriginal family. Taking a flexible and client-centred approach, Legal Clinic staff were able to make urgent arrangements with the Mater's Aboriginal Social Worker to facilitate our attendance at the hospital to sign a will for our client. The social worker, our client, and our client's wife were extremely grateful for our efforts in attending to the matter with such efficiency and dignity, particularly in light of the COVID-19 restrictions that were then in place.

Community Legal Education

There have been multiple Community Legal Education (CLE) seminars undertaken by the Clinic in its first 12 months of operation. CLE is a key part of the Clinic's service delivery program and it is informed by our casework as well as responding to community requests.

The Clinic delivered presentations on a variety of topics, including: 'planning ahead', elder abuse, drafting wills, power of attorney, advanced care directives, enduring guardian documents and estate planning. Resource materials were also created by the Clinic on the subjects of domestic violence, estate and future planning, elder abuse, strata retirement villages and the closure of retirement villages, and power of attorney.

We were quick to adapt to the move online required by COVID-19. Some presentations were delivered online or via pre-recorded video.

CLE presentations were delivered at:

- Belmont Library
- Morisset Library
- The Place, Charlestown
- Capacity Assessment Symposium, University of Newcastle
- The Grainery Church and Retirement Village, Mayfield West – online presentation
- Lake Macquarie Council – video presentation



Margot McAlary promoting the Clinic at the Central Coast Council Seniors Expo in Wyong, 13 February 2020



Margot McAlary delivering a presentation on the topics of 'planning ahead' and elder abuse at Belmont Library, February 2020

OUR CLIENTS

A client who contacted the Clinic for advice had been subjected to bullying and harassment by neighbours and management at a retirement village over a period of some months, causing the client much distress and anxiety. We wrote a letter to all the other parties requesting them to refrain from such behaviours or the client might be forced to make application for an apprehended violence order. The client has since reported that these behaviours have stopped. It is heartening to be able help in this way.

A client who called for telephone advice wanted advice on transferring her property title to her child's name and building a granny flat at the rear of the property for her to live in. We advised that such action would leave her without property ownership and vulnerable to financial abuse and homelessness. We also suggested that if she wanted to continue with that plan that she should enter into a written agreement with that child. The client indicated that the advice was of great assistance and that she would now be able to discuss these plans with her daughter in an informed way.

A client attended our outreach clinic in Gosford before the COVID-19 restrictions wanting to discuss how best to deal with family situations through their wills, powers of attorney and enduring guardian documents focusing on preventing financial abuse. It was good to see the relief on the client's face that came from being able to assist them to resolve the issues they had been grappling with for many years.

There are many more clients who have been similarly assisted. It is so important to be able to offer legal advice and direction that empowers clients to plan for their future.





OUR STUDENTS

The Legal Centre has around 120 students undertaking its clinical legal education program each year who are placed at the University of Newcastle Legal Centre. Clinical legal education is a method of teaching and learning the law that combines traditional classroom study with practical, real-world training. Through the Legal Centre's program, students put their knowledge into practice, assisting real clients with legal issues. This experience means that students graduate skilled-up and career-ready.

As part of their legal education, students now have the opportunity of working with clients in the Older Persons Legal Clinic. Undertaking such activities as giving supervised advice, client interviewing, providing advocacy, making referrals and drafting legal documents, students gain experience supporting a vulnerable group in our community. This is transformative for many students, who graduate with new understanding of the disadvantage facing some individuals and the challenges posed by our legal system in terms of access to justice.

We are proud of our wonderful students and their commitment to giving back to the community. Thank you to everyone who participated in the clinical program over the last year and we wish you all the best for the future.

“Interviewing older clients at Law on the Beach meant that sometimes I encountered attitudes and beliefs that were vastly different from my own. I had to learn how to manage that generational divide between law student and client.” – Amy

“Communicating with and providing advice to older persons in the Clinic teaches students patience and empathy in the legal profession. It was extremely satisfying to be able to assist vulnerable members of the community, especially when they are unable to access or pay for external legal advice.” – Amelia

“Working in the Older Persons Legal Clinic with a mature demographic was a treat for me; the gratitude and appreciation for our efforts was always abundant.” – Nick

INCOME STATEMENT FOR THE YEAR ENDED 30 JUNE 2020

	\$
Income	
CLSP Income - State	197,773
Expenditure	
Salary Related Expenditure	
Academic Salaries & Oncosts	(175,378)
Non Salary Expenditure	
Consumables	
Services	(623)
Utilities	(1,128)
Equipment	(233)
	(33)
	(177,395)
Surplus for the year	<u>20,378</u>
Net Surplus	<u>20,378</u>

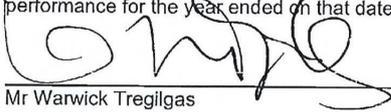
STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2020

	\$
ASSETS	
CURRENT ASSETS	
Funds at Call - The University of Newcastle	32,422
TOTAL CURRENT ASSETS	<u>32,422</u>
TOTAL ASSETS	<u>32,422</u>
LIABILITIES	
CURRENT LIABILITIES	
GST Payable	12,044
TOTAL CURRENT LIABILITIES	<u>12,044</u>
TOTAL LIABILITIES	<u>12,044</u>
NET ASSETS	<u>20,378</u>
SURPLUS	
Surplus for the year	20,378
NET SURPLUS	<u>20,378</u>

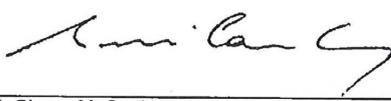
The chairperson of the organisation declares that the financial statements, for the year ended 30 June 2020:

- (a) comply with Accounting Standards; and
- (b) give a true and fair view of the financial position at 30 June 2020 and of its performance for the year ended on that date.

Chairperson:


Mr Warwick Tregilgas

Director UNLC:


Mr Shaun McCarthy

Dated this 6th day of OCTOBER 2020

ADVISORY COMMITTEE

The Older Persons Legal Clinic is very grateful for the expertise and contribution made by our Advisory Committee members. The Committee met three times in the last 12 months and provided valuable strategic guidance to the Clinic during this formative period. The current composition of the Advisory Committee is:

Warwick Tregilgas *Barrister, Newcastle Chambers*

Felicity Wardhaugh *Mullane & Lindsay*

Sue Norgard *Community Member*

Professor Tania Sourdin *Dean, Newcastle Law School*

Shaun McCarthy *Director, University of Newcastle Legal Centre*

Professor John Anderson *Newcastle Law School*

Margot McAlary *Legal Practitioner, Older Persons Legal Clinic*

Jonathon Spencer *Australian Taxation Office*

Loren Collyer *Indigenous Student Advancement Officer and Casual Academic, UoN*

Margaret Whitson *Aboriginal Hospital Liaison Officer, Calvary Mater Newcastle*

ACKNOWLEDGEMENTS

Between 2019 and 2020 the Older Persons Legal Clinic received income and grants from:

NSW Government

Newcastle Law School

Legal Aid NSW

The Older Persons Legal Clinic would like to acknowledge:

- **Australian Taxation Office** for providing significant support and office space at their premises for our pop-up Gosford clinics
- **Our Advisory Committee** for providing guidance and expertise during our first 12 months
- **The volunteer solicitors** who provided their time and legal knowledge pro bono to staffing our clinic
- **Newcastle legal profession** for being ever-ready to receive referrals and for their ongoing support of our activities
- **Staff of the Newcastle Law School and University of Newcastle Legal Centre**
- **Students at Newcastle Law School and University of Newcastle Legal Centre**
- **Faculty of Business and Law and the University of Newcastle**

Thank you to everyone who has been a part of making the Older Persons Legal Clinic happen.

The image shows a modern glass building facade with a large white logo of a horse's head on the left. The text 'THE UNIVERSITY OF NEWCASTLE AUSTRALIA' is printed in white across the glass panels. The building has orange panels on the right side. A large orange triangle is overlaid on the bottom left of the image.

THE UNIVERSITY OF
NEWCASTLE
AUSTRALIA

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