

7 March 2011

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Secretary and Senators,

Submission to the Senate Legal and Constitutional Affairs Committee's Inquiry into the Australian Law Reform Commission

The Australian Academy of Law (AAL) welcomes this opportunity to contribute to the Senate Legal and Constitutional Affairs Committee's Inquiry into the Australian Law Reform Commission (ALRC). The AAL is a broadly-based and permanent body, comprising individuals of exceptional distinction from all parts of the legal community—elected from the judiciary, legal practitioners and legal academics—united in a common goal of advancement of the discipline of law and the justice system. The establishment of the AAL in 2007 was itself the culmination of a process begun with the ALRC's landmark report, *Managing Justice: a review of the federal civil justice system* (ALRC 89, 2000).

The AAL is concerned that the recent funding cuts to the ALRC's budget, which prompted the establishment of this Inquiry, threaten the Commission's continued viability. While we appreciate the inherent difficulties in balancing the competing demands on the public purse, it is hoped that the Australian Government will continue to place a high value on the skills of consultation, research and informed, evidence based decision making which underpins the work of the ALRC.

The very important role played by the ALRC has been highlighted in many of the submissions to this Inquiry. In this submission the AAL focuses on three issues, the importance of the independence of the ALRC, the valuable role the ALRC's consultation processes play in the formulation of recommendations for reform; and, the impact of funding cuts on the ALRC's ability to attract full-time Commissioners and staff of high quality.

The ALRC, as an independent agency with well respected full-time Commissioners and staff, has been able to access information and expertise that is generally not available to policy branches of government departments. For example, through the appointment of Advisory Committees for each of its inquiries, the ALRC is able to access, pro bono, the expertise of national and international leaders in areas relevant

to its inquiries. Indeed, many members of the AAL have served on ALRC Advisory Committees.

Further, through its consultation processes, the ALRC has been able to ensure that the disparate voices of all stakeholders are heard. Ultimately, this strengthens the community's acceptance of legislative reform based on ALRC recommendations. This, in turn, strengthens the Rule of Law.

Finally, central to the success and status of the ALRC since its establishment has been its ability to attract intellectual leaders to serve as President, Deputy President and full-time Commissioners. In addition, it is critical to the long term viability of the ALRC that it attract high quality legal officers to work on its inquiries. The severe funding cuts put in jeopardy these critical components of the ALRC's operations.

Throughout its history, the ALRC has been a strong, independent voice providing informed advice to the Australian Government. It is important that this voice continues to be heard, and that the ALRC receive adequate funding to carry out its important role.

We thank the Committee for the opportunity to contribute to this inquiry.

Sincerely

The Hon Robert Nicholson, President