

CHAPTER 1

Introduction

Referral of the inquiry

1.1 On 23 November 2010, the Senate referred the following matter to the Legal and Constitutional Affairs References Committee for inquiry and report by 31 March 2011:

The Australian Law Reform Commission (ALRC), with particular reference to:

- (a) its role, governance arrangements and statutory responsibilities;
- (b) the adequacy of its staffing and resources to meet its objectives;
- (c) best practice examples of like organisations interstate and overseas;
- (d) the appropriate allocation of functions between the ALRC and other statutory agencies; and
- (e) other related matters.

1.2 On 31 March 2011, the committee tabled an interim report which stated that the committee required more time to consider the issues raised in the inquiry, and that the committee intended to table its final report by 8 April 2011.

Background to the inquiry

1.3 At the Supplementary Budget Estimates hearings in October 2010, members of the Senate Legal and Constitutional Affairs Legislation Committee sought information from representatives of the ALRC about the level and impact of budget cuts on the organisation.

1.4 The committee was informed that the ALRC's budget would be reduced by \$242,000 in the financial year 2010-11. Then, for the subsequent years of the forward estimates period, the ALRC's budget would be reduced by \$495,000 per year.¹

1.5 The ALRC advised the Senate Legal and Constitutional Affairs Legislation Committee that the impact of these budget cuts would be that:

- the ALRC would continue to have only one full-time commissioner, the President, Professor Rosalind Croucher;
- the ALRC's educational outreach program, including the journal *Reform*, would be discontinued;

1 Ms Sabrina Wynn, Australian Law Reform Commission (ALRC), *Committee Hansard*, 18 October 2010, p. 41.

- the ALRC would need to draw down on some of the funds that it held in reserves; and
- travel expenditure would be reduced.

1.6 The ALRC indicated that it intended to make productivity savings in a number of areas so that it could maintain its current complement of staff, regardless of the budget cuts.² The drastic nature of the budget cuts to the ALRC and the proposed impacts of these cuts are a cause of concern to members of the Senate Legal and Constitutional Affairs References Committee.

1.7 In addition to these major budget cuts, the ALRC will undergo significant changes in its governance structure and financial management from 1 July 2011, as a result of changes introduced by the *Financial Framework Legislation Amendment Act 2010*. The impact of these organisational and financial changes was also highlighted by witnesses in the course of the inquiry.

1.8 This inquiry gives the Legal and Constitutional Affairs References Committee the opportunity to further explore the impact of the budget cuts, and the governance and financial management changes, on the ALRC.

Previous reports

1.9 The Attorney-General's Department's (Department) submission referred to a previous inquiry by the Senate Standing Committee on Constitutional and Legal Affairs in 1979. The Department's submission noted that the recommendations of that inquiry, namely that ALRC reports should include draft legislation and that legislative drafters from the Office of Parliamentary Counsel should be seconded to the ALRC for this purpose, have never been actioned.³

1.10 In May 1994, the House of Representatives Standing Committee on Legal and Constitutional Affairs tabled a report for its inquiry into the role and function of the then Law Reform Commission of Australia. The report contained 40 recommendations covering a broad range of issues, including amendments to the *Law Reform Commission Act 1973* to clarify governance arrangements and recognise the distinction between full-time and part-time commissioners.⁴

1.11 There was also a previous inquiry conducted by the Senate Legal and Constitutional Affairs Committee in 2003 into the statutory powers and functions of the ALRC. However, that committee did not present a substantive final report, instead noting that the inquiry originated from events occurring five years previously and, as

2 Ms Sabrina Wynn, Australian Law Reform Commission (ALRC), *Committee Hansard*, 18 October 2010, pp 42-3.

3 *Submission 15*, pp 17-18.

4 House of Representatives Standing Committee on Legal and Constitutional Affairs, *Law Reform: The Challenge Continues*, May 1994.

considerable time had passed since the initial reference, the inquiry should not proceed any further.⁵

Conduct of the inquiry

1.12 The committee advertised the inquiry in *The Australian* newspaper on 8 December 2010 and wrote to over 90 organisations and individuals, inviting submissions by 28 January 2011. Details of the inquiry were placed on the committee's website.

1.13 The committee received 24 submissions from various individuals and organisations, and these are listed at Appendix 1. Submissions were placed on the committee's website.

1.14 The committee held public hearings in Canberra on 11 February and 3 March 2011. A list of witnesses who appeared at the hearings is at Appendix 2, and copies of the *Hansard* transcript are available through the Internet at <http://www.aph.gov.au/hansard>.

Acknowledgement

1.15 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearings.

Structure of the report

1.16 The committee's report is structured in the following way:

- Chapter 2 provides background information in relation to the role, structure and work of the ALRC;
- Chapter 3 discusses the changes to the governance structure of the ALRC contained in the *Financial Framework Legislation Amendment Act 2010*;
- Chapter 4 contains a discussion on the impacts of the recent significant budget cuts in terms of the appointment of full-time commissioners and staffing at the ALRC;
- Chapter 5 discusses the impacts of the budget cuts on the public information and education program and the conduct of inquiries; and
- Chapter 6 sets out the committee's views in relation to the issues raised in the course of the inquiry.

5 Senate Legal and Constitutional Affairs Committee, *Report into the Powers and Functions of the ALRC*, 20 March 2003.

Note on references

1.17 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee *Hansard* are to proof *Hansard*: page numbers may vary between the proof and the official *Hansard* transcript.