



Law Council
OF AUSTRALIA

The Victorian Bar: Membership of the Law Council of Australia

Victorian Bar Members

29 September 2016

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About the Law Council of Australia

The Law Council of Australia exists to represent the legal profession at the national level, to speak on behalf of its Constituent Bodies on national issues, and to promote the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world.

The Law Council was established in 1933, and represents 16 Australian State and Territory law societies and bar associations and the Law Firms Australia, which are known collectively as the Council's Constituent Bodies. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Australian Capital Territory Law Society
- Bar Association of Queensland Inc
- Law Institute of Victoria
- Law Society of New South Wales
- Law Society of South Australia
- Law Society of Tasmania
- Law Society Northern Territory
- Law Society of Western Australia
- New South Wales Bar Association
- Northern Territory Bar Association
- Queensland Law Society
- South Australian Bar Association
- Tasmanian Bar
- Law Firms Australia
- The Victorian Bar Inc
- Western Australian Bar Association

Through this representation, the Law Council effectively acts on behalf of more than 60,000 lawyers across Australia.

The Law Council is governed by a board of 23 Directors – one from each of the constituent bodies and six elected Executive members. The Directors meet quarterly to set objectives, policy and priorities for the Law Council. Between the meetings of Directors, policies and governance responsibility for the Law Council is exercised by the elected Executive members, led by the President who normally serves a 12 month term. The Council's six Executive members are nominated and elected by the board of Directors.

Members of the 2016 Executive as at 1 January 2016 are:

- Mr S. Stuart Clark AM, President
- Ms Fiona McLeod SC, President-Elect
- Mr Morry Bailes, Treasurer
- Mr Arthur Moses SC, Executive Member
- Mr Konrad de Kerloy, Executive Member
- Mr Michael Fitzgerald, Executive Member

The Secretariat serves the Law Council nationally and is based in Canberra.

Introduction

The Victorian Bar Council (**VBC**) has advised the Law Council of Australia (**LCA**) that it is currently reviewing its membership of the national body.

The VBC commissioned the Hon Ray Finkelstein AO, QC to undertake a report (**the Report**) this year, now published to members.

LCA President-elect Fiona McLeod SC and Chair of the Access to Justice Committee, Dr David Neal SC, were invited to attend a VBC meeting on 8 September, 2016 to present views for the continuation of membership. Those views are incorporated into this submission.

The purpose of this paper is to set out the benefits of Law Council membership for the VBC and Victorian Bar members and the potential ramifications of withdrawing for the entire legal profession.

In essence, the issue of membership may be approached in a number of ways. This submission seeks to address the following questions:

- Should the Victorian Bar continue to participate in and influence the peak national body for solicitors and barristers?
- Is there an alternative national body that could better meet the strategic goals of the VBC on behalf of its members?
- Does the cost of membership provide value for money?

In summary, the view expressed to VBC and supplemented below is that:

- The LCA is best placed to influence national policy and laws directly affecting the practice of Victorian barristers, the resourcing of federal courts and the rule of law;
- There is no alternative national body capable of fulfilling this role now, or in the short term; and
- The cost of membership is worthwhile.

The practical implications of withdrawing are considered in the closing section.

The Role and Structure of the LCA

As the national peak body for the legal profession, the LCA is unique among international legal professional associations. It is the only national body capable of representing the interests of 65,000 solicitors and barristers.

While providing representation for legal practitioners on federal, national and international issues, it is also widely regarded as a credible, expert voice on law reform and increasingly regarded as one of the most influential civil society organisations on law reform issues in Australia.

Its influence is broader – in terms of law reform – than any other professional or civil society organisation at the national level. It represents its constituents and engages with governments and national stakeholders on possibly the widest range of issues of any peak

body. Day to day matters of the LCA are managed by the CEO and staff and overseen by an elected 'Executive'. A new CEO, Jonathan Smithers, commenced work at the LCA in September 2016. Jonathan was formerly the President of the Law Society of England and Wales and brings a wealth of experience to respond to many of the challenges facing the profession in Australia, having experienced similar challenges first-hand in the UK.

The staff of the LCA include expert advisers in policy and public affairs, with high competencies in research and drafting submissions, who have developed good relationships with Ministers of the Crown, Opposition Shadow Ministers and other members of both houses of parliament.

The LCA has the benefit of a highly-experienced, professional leadership team, who are well known to constituent bodies and with proven capability to direct integrated national projects, including those designed to address challenges affecting barristers.

The Board of Directors, comprising a representative of each of the 17 constituent bodies, meets four times per annum at general meetings. Contentious issues and matters of policy are referred to the Board. Often Directors' meetings are timed to coincide with events of national significance. For the most part these meetings are conducted in Canberra, Melbourne or Sydney.

The elected Executive of six includes the President, President-elect and Treasurer and three Executive Members. The President-elect is appointed President at a meeting of Directors following the AGM in November each year, with her or his term of office to commence on 1 January.

Committees of the LCA act as expert advisors to the LCA Executive and Board. These include Access to Justice, Criminal Law, Human Rights, Equality of Opportunity, Indigenous Issues, Future of the Legal Profession, 'Rural Regional and Remote', Legal Education, Professional Ethics, Elder Law and Succession Law, National E-Conveyancing and Australian Young Lawyers. In addition, the LCA supports a number of Working Groups to progress specific objectives, including in relation to Judicial Issues, Family Violence, Indigenous Imprisonment, Legal Profession Uniform Law, Business and Human Rights and Legal Assistance Funding.

Sections, with individual membership are, in effect, committees of the LCA. Each Section sets its own membership by-laws with the approval of the Executive of the LCA and ultimately the Board.

The Sections are substantially supported by the LCA Secretariat, relying on Secretariat staff for day-to-day administrative and policy support in terms of membership, events, CPD, specialist committees and the activities of Section Executive Committees. The bulk of this work is supported by LCA capitation fees and secretariat resources, while membership fees paid to the Sections are generally directed towards other membership services, publications and event logistics.

The Victorian Bar as a constituent body

The Victorian Bar was one of the ten founding constituents of the LCA at its creation in 1933.

At a time in which the Australian Federation was still young, the discussion of the need for a national body to represent the profession had been running for many years.¹

Since then, Victorian Bar members have held enormous influence over the leadership and direction of the LCA.

The LCA's leadership on national issues has been widely recognised. In 1974, Richard McGarvie QC (Victorian Bar member and LCA Treasurer) said: *"It is essential that there be an effective organisation to scrutinise and influence changes of the law by the Commonwealth. The obvious organisation to do this is the Law Council of Australia..."*²

Past Presidents of the LCA from the Victorian Bar include:

The Hon Alex Chernov AC QC (1990)

Ross Ray QC (2008)

Michael Colbran QC (2013-14)

With the commencement of the Presidency of Fiona McLeod SC in 2017, seven of the last thirteen Presidents will have been barristers, three of whom are from the Victorian Bar.³

The Bars tend to be well represented on the Executive of the LCA, despite the fact that the Bars comprise only about 10% of the entire profession. This year one third of Executive Members are barristers. Last year barristers comprised two thirds of the positions. This reflects the high standing and regard of the profession for senior barristers.

Current Victorian Bar representation on LCA committees and working groups include:

Committee/Working Group	Victorian Bar members
President-elect	Fiona McLeod SC
Finance and Risk	Jennifer Batrouney QC
Access to Justice	Dr David Neal SC
Legal Assistance Funding	Dr David Neal SC (Co-Chair)
Equality of Opportunity	Caroline Kirton QC (Chair), Michelle Quigley QC
National Human Rights	Emrys Nekvapill, Fiona McLeod SC
Business and Human Rights	Peter Fox SC, Peter Willis SC
National Criminal Law	Paul Holdenson QC, Dr David Neal SC, Michael Stanton
Indigenous Legal Issues	Tim Goodwin, Tom Keely SC, Fiona McLeod SC
Family Violence	Megan Tittensor
Futures	Michael Colbran QC (Co-Chair)
Australian Young Lawyers	Joel Silver

Victorian Bar members are also extremely active and important contributors to the work of the LCA's specialist Sections, of which many Victorian barristers are individual members.

¹ Gordon Hughes, *The Law Council of Australia: the People, The Profession and the Institutions*, (Halstead Press, 2007), 27.

² Ibid, 87.

³ Duncan McConnel (NT Bar, 2015), Michael Colbran QC (Vic Bar, 2013-14), Alexander Ward (SA Bar, 2011), Ross Ray QC (Vic Bar, 2008), Steve Southwood QC (NT Bar 2004), Robert Gotterson QC (Qld Bar, 2003)

As a constituent body, the Victorian Bar has contributed positively and extensively both to the leadership of the profession nationally and to the LCA's role in upholding the rule of law, improving Commonwealth legislation and influencing policy developments at the national level.

Should the Victorian Bar participate in the LCA as the peak national body?

Consistency of values and purpose

The constitutional purposes of the Victorian Bar include improving relationships with Australian governments and other professional associations; liaison and work with the profession nationally and internationally; promotion of the rule of law; and the making of recommendations with respect to legislation, law reform, rules of court and procedures of courts: Purposes s2.

The Strategic Plan 2013-2017 of the Victorian Bar contemplates that the Bar shall, through volunteer committee membership, contribute to public policy making and legislation by submissions directly to government and collaborating with the LCA and others: 4(b). Many of the Objectives and Strategies adopted by the VBC contemplate this contribution.

These are appropriate objectives that are consistent with the LCA's vision and values.

Credibility and influence

The Report recognises that the LCA is a credible and authoritative national voice for the profession that asserts significant influence over national legal policy, laws and regulation.

It also accepts that there is no other national body capable of directing national influence and effective representation and leadership of the legal profession. It is, in short, the only game in town.

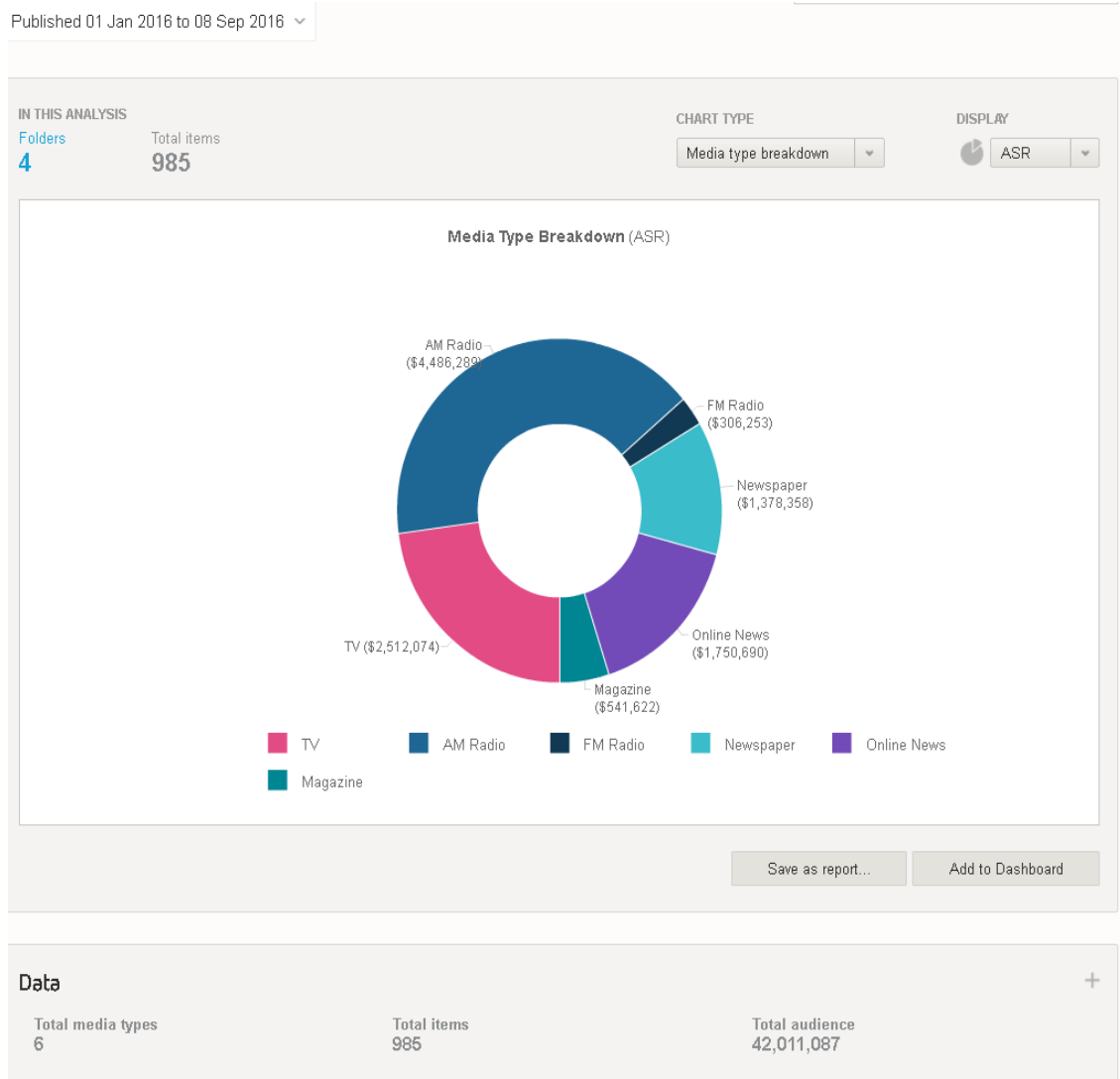
The standing and influence of the LCA is recognised by Courts, Attorneys-General, Ministers and Shadow Ministers, cross benchers, the national Uniform Profession regulator and senior public servants.

One way of measuring the LCA's influence on policy and law reform is to examine its track record. An overview of the LCA's success in influencing the federal legislative and policy agenda is set out at **Attachment A**.

The LCA's advocacy reach and impact might also be measured by the effectiveness of its engagement with the media. For example:

- Since the beginning of this year, the LCA has either generated (or had its position reflected) in over 1000 stories reaching over 42 million Australians. The estimated advertising value of this coverage is almost \$11 million (\$10,975,286). (See table below)
- As noted, in relation to the Legal Aid Matters campaign, media coverage of the first week of the campaign resulted in [175 stories \(print/online/radio and TV\)](#) reaching around 8 million people. The equivalent advertising value of this coverage is around \$1.75 million.

- The LCA's media response to the Government's [Strengthening Counter-Terrorism](#) announcement resulted in the LCA's position being reported in over 100 stories (tv, radio, online and print) reaching over four million Australians. Many of the LCA's key concerns were addressed by the Attorney-General and announced following the [Meeting of Attorneys-General on post sentence preventative detention](#).
- The LCA's [response](#) to the new NT [Royal Commission](#) was also widely covered in the media. The LCA directly influenced the terms of reference and the appointment of an Indigenous co-commissioner.
- Following further [revelations](#) (aired on the ABC's 7:30) about alleged mistreatment of juveniles in detention in Queensland, the LCA [immediately called](#) for broad, independent reviews of youth detention in all remaining States and Territories. The LCA's position was covered extensively in the media with over 50 stories (TV, radio, online and print) reaching over four million Australians. In less than 24 hours, Queensland had [announced](#) an independent investigation.



Since the 2016 Federal election, the LCA's engagement with Federal parliamentarians has included meetings with fifteen Cabinet Ministers, opposition front-benchers and key cross-bench Senators. This engagement has already secured the LCA privileged access to government legislation briefings and timetables, opportunities for confidential consultations and direct advice to Ministers, MPs and Senators on legal profession issues.

Further, through its extensive political networks the LCA has achieved significant changes to legislation before the Parliament and important changes in the exercise of executive powers without media engagement or publicity, as circumstances have required.

LCA work supporting Victorian barristers

In terms of its work of direct benefit to barristers, a more fulsome summary of relevant activities benefiting barristers is set out below in **Attachment B**.

Current high-priority issues directly affecting barristers include:

- (a) Legal aid funding – the LCA is the primary advocate on federal funding, calling for a return of federal funding for matters arising under state and territory laws, particularly crime. This is of direct and critical importance to junior barristers.
- (b) Promoting the Equitable Briefing Policy – the LCA is actively promoting the adoption of the Briefing Policy by firms, companies and other briefing entities.
- (c) Unconscious bias – the LCA has recently arranged the development of an extensive training package addressing unconscious bias in the profession, including online training all constituent bodies can offer directly to members. The LCA has borne the entire cost of development, which will deliver significant financial and other benefits to the Victorian Bar and other constituent bodies.
- (d) Anti-money laundering – the LCA is strenuously advocating to prevent legal practitioners being subject to tranche 2 of the Federal Government's Anti-Money Laundering and Counter Terrorism Financing regulation, which may impose extensive additional regulatory costs on all practitioners, including barristers.
- (e) Criminal justice and counter-terrorism – the LCA has influenced key aspects of new legislation before Parliament, including the Commonwealth special advocates regime and preservation of fundamental legal and common law rights in counter terrorism and industrial legislation.
- (f) Cyber-security – the LCA is developing a package to assist smaller firms and barristers to guard against cyber attacks.
- (g) Judicial appointments – the LCA is consulted in relation to judicial appointments to the federal courts. On these matters, the LCA consults with its constituent bodies.
- (h) Federal courts liaison – the LCA, through its Federal Litigation and Dispute Resolution Section and Family Law Section, carries out liaison with the Federal Court, Family Court, Federal Circuit Court and Administrative Appeals Tribunal. These are key jurisdictions for many Victorian Bar members.
- (i) Personal injury law reform – the LCA works with each of its constituent bodies to advocate for retention of common law and to resist restrictions on common law rights, including under the National Disability Insurance Scheme.

- (j) Professional regulation – the LCA is working to bring other jurisdictions into the uniform law scheme, successfully ending dual regulation of immigration lawyers and is reviewing professional conduct rules.
- (k) Future of the legal profession – The LCA has been undertaking a major project on the future of legal practice in Australia, chaired by Michael Colbran QC. This includes seven projects, one of which specifically focuses on issues affecting barristers, while the remaining six affect all practitioners, including barristers.

A more extensive summary of current priority issues affecting barristers is set out at **Attachment B**.

The LCA's international work also directly benefits barristers. A primary focus of the LCA's work is on opening up new markets for Australian lawyers overseas, which has significant implications for all barristers, particularly those engaged in international arbitration, commercial litigation and the provision of commercial advice on Australian law in transnational disputes

As acknowledged in the Report, the LCA is also recognised internationally as the peak body for Australian lawyers, including within the International Bar Association, Commonwealth Lawyers Association, LAWAsia, Union Internationale des Advocates and among all foreign law associations recognised as peak bodies in their jurisdictions. This recognition extends to foreign governments, with which the LCA engages on issues affecting barristers and solicitors overseas. Recent examples include advocacy on persecution of Chinese lawyers, intimidation and coercion of lawyers in Turkey and incursions into the independence of the Malaysian Bar.

These matters demonstrate that the LCA clearly punches well above its weight in its political and policy engagement, delivering substantial return on investment in terms of outcomes.

Is there an alternative national body that could better meet the needs of Victorian barristers?

The VBC has, for a number of years, grappled with pressures upon sections of the bar including the erosion of public funding for legal aid and loss of advice and trial preparation work in house to larger firms.

Loss of funding for legal aid

Legal aid funding affects the criminal, family and children's bars most significantly. Flow on loss of funding to civil work including administrative review, human rights and consumer protection have been a feature of the legal landscape for at least fifteen years. The restoration of funding to legal aid commissions and flow on to community legal services is the subject of a direct and sophisticated campaign spearheaded by Dr David Neal SC on behalf of the LCA in collaboration with the legal aid sector and many NGO groups. The campaign has now moved to Phase 3, ahead of the next federal budget.

There is no other body with the capacity to continue this campaign, which has singularly created the most significant public recognition of this issue in over a decade and resulted in significant commitments from all major parties in advance of the 2016 Federal election. This campaign is discussed in detail in **Attachment B**.

Changes in briefing practices

In terms of the loss of advice and trial preparation work, there is no research to support the reasons behind this shift in briefing patterns. It is reasonably assumed that larger firms are seeking to maximise profits by briefing late in the piece. It is assumed therefore, superficially, that the firms are competitors for advice and trial preparation work and the LCA cannot address this issue due to an inherent conflict.

The assertion of a conflict is one of perception rather than reality in light of the activities of the LCA and the influence of barristers noted above.

Responding to these challenges by withdrawing from the LCA would be ill-considered for a number of reasons.

First, the loss of influence that will follow withdrawal is not worth the benefits of isolation and fragmentation – whatever they may be.

Second, the trend of keeping control of litigation in-house by the big firms, in-house counsel and public defenders is not reversed by withdrawing from the national peak body. The Bar depends on firms for briefing except in small direct briefing matters. To withdraw from a body that houses both interests (including the Bars and law societies that represent large, middle size and small firms) is to set the Bar adrift with no clear plan concerning how work should be reinstated. Mid-sized and small firms depend very heavily upon the Bar and opportunities for practice development lie squarely in this arena. Access to foreign firms seeking advice from Australian lawyers is a growing market that the LCA is best placed to develop on behalf of barristers in light of established international relations and sustained efforts in this area.

Third, there are strategies that can be pursued only in cooperation with solicitors – for example, national equitable briefing; restoring rights of appearance in tribunals such as the AAT; pursuing greenfields in international arbitration and new technologies; and exploring new models for barristers to undertake locum work or contract services.

Finally, there is no plan B. Recent efforts to drive work to the Bar have involved attempts to build closer relationships with firms, not to withdraw from those relationships. Reaching out to corporate and government clients will take time and care, to ensure the critical independence of the bar is preserved.

The Australian Bar Association (ABA)

In 2015 the ABA underwent a significant corporate transformation. The ABA had always previously performed strongly in terms of advocacy training and conducting excellent biannual conferences but until recently had not assumed a role in influencing legal policy and laws beyond occasional commentary in defence of the Courts and attacks upon the rule of law. The ABA has not developed strategies to rebuild the practices of individual barristers or the bars as a whole. The ABA is not, as the Report notes, in a position to take on the role of the LCA.

In order for the ABA to take on an equivalent role, it will need significant additional resources. If it is proposed that the current VBC capitation fee will be redirected to the ABA – assuming members agree with this course – it will be insufficient to fund a permanent secretariat of similar capacity to the LCA. Administrative functions will

necessarily be duplicated. The NSW Bar has indicated it does not intend to withdraw from the LCA and provide additional funding to the ABA.

Importance of a united profession

The interests of barristers and solicitors coincide in a number of significant ways. Both face significant challenges in an increasingly globalised world with competitive pressures. Recent challenges, such as litigation reforms, the Global Financial Crisis, attrition of lawyers in regional areas and cut backs to legal aid have impacted both barristers and solicitors. New anti-money laundering legislation and the proposed mandatory reporting about client activities will affect both branches of the profession.

The LCA has a fundamental role in establishing and opening up new markets for both barristers and solicitors in the region, as well as influencing federal laws and multi-jurisdictional issues affecting the availability of work for barristers.

Even in those limited areas where barristers and solicitors might find themselves in competition, withdrawing from the LCA does not offer a solution and is likely to hamper the search for one.

A better approach would be to deepen the involvement of the Victorian Bar and other independent Bars in collaborative approaches to these issues, through the LCA.

Do membership fees provide value for money?

Prior to this year the VBC has not raised any concern about its per capita contribution.

The current annual per capita membership fee is \$229,000 including GST. The cost to individual barristers is around \$110 per annum.

To place this in context, the Victorian Bar's contribution to the LCA amounts to 2.9% of the LCA's gross income. The Law Society of New South Wales contributed close to \$3m last financial year. The next largest contributors were the Law Institute of Victoria and Queensland Law Society.

In real and practical terms, the Victorian Bar exerts the same influence over the activities of the LCA as any other constituent body despite the disparity of membership fees. This is because historically and at present, Victorian Bar members hold senior positions within the organisation and its key advisory committees and wield significant influence over decision-making of the LCA.

The weighted voting system entrenched in the LCA constitution has never been used. For the most part, consensus or a plain majority of Directors carries resolutions of the Board of the LCA. While the rules contemplate the possibility of different 'classes' of resolution, wherein different voting rights may apply, these rules have never been invoked and it is difficult to conceive of a situation in the future where they might be.

This affords the Victorian Bar considerably higher proportionate voting power, as a proportion of the overall contribution. Further, the Bars collectively hold a substantially higher degree of voting power than their collective financial contributions would indicate.

Specific financial issues raised in the Report

Members of the Victorian Bar should have no doubt concerning the sound financial and prudential standing and reporting of the LCA. These matters are managed by appropriately qualified staff and overseen by appropriate governance committees.

The Directors approve all expenditure in an annual budget and clear policies (for example around travel) and practices. The general rule is that the Executive do not approve additional spending unless savings can be found with offsets.

The Vice President of the VBC, Jennifer Batrouney QC, sits on the Finance and Risk Committee of the LCA and has contributed enormously this year to protecting the position of the LCA in terms of its charitable status.

Specific criticisms of expenditure made in the Report, for the first time, are incorrect or can easily be raised for consideration. For example, the LCA does already use teleconferencing and increasingly, videoconferencing, to facilitate meetings of the Executive, Directors, CEOs, committees and staff.

Other criticisms, vaguely expressed in the Report, should be articulated and addressed directly. For example, the 'general feeling' concerning attendances at conferences is said to point to inadequate oversight of expenditure.

All decisions with respect to travel and attendance at international events by LCA office-holders, including the President and CEO, are carefully considered against the LCA's International Strategy and are required to meet the test of benefitting members.

International engagement is recognised as an important aspect of work conducted by all peak organisations, including the Bars. For example, Victorian Bar members regularly attend ABA and IBA conferences and other events; and the Commbar Conference this year was held in London.

Practical implications of withdrawal

It is clear, and the Report clearly concludes, that membership of the LCA is of considerable and ongoing benefit to Victorian barristers. Withdrawal of membership will no doubt harm the reputation and national influence of the Victorian Bar in the immediate and long term. Departure is likely to leave Victorian barristers without a strong, credible representative at the national and international levels.

The LCA constitution requires that a member constituent body give at least six months notice of an intention to cease membership. At the earliest, the withdrawal could not take effect before April 2017, during the term of the Presidency of Fiona McLeod SC.

If the Victorian Bar withdraws, it will lose its voice in the national peak body and any influence over the LCA's strategic direction, policy development and international engagement. Its influence over law reform in the federal sphere will substantially wane.

The most significant loss for the LCA will be the fact that it will no longer represent the entire profession. Those who seek to diminish the impact of the LCA's work on matters of law reform and policy will inevitably rely on this. This will be to the detriment of the remainder of the profession, but also to the Victorian Bar, to the extent that its objectives

with respect to the promotion of the rule of law and administration of justice continue to align with the LCA's.

After cessation of membership, the VBC will not be–

- invited to contribute to submissions;
- invited to nominate appointments to committees resulting in attrition (at least over time) of key membership and influence;
- invited to raise issues of direct concern to members through the advocacy and campaigns of the LCA; or
- represented by a President who is a member of the Victorian Bar.

Given direct support to Sections by the LCA Secretariat, it cannot be assumed that Constituent Bodies which remain in the LCA will maintain support for ongoing membership of Sections by individuals who are not a member of a Constituent Body. Withdrawal may reduce opportunities available to Victorian Bar members and deny the Sections the experience and expertise of Victorian barristers.

No consideration appears to have been given to the position of the Victorian Bar or the regulator as a member of the uniform law Legal Services Council (**LSC**). The Chair of the LSC, the Hon Michael Black AC, QC and the Chief Justice of the High Court do not appear to have been consulted.

Consideration of LCA membership by the Victorian Bar has already impacted upon the position of the President-elect. While there is no constitutional barrier to her appointment as President, questions of legitimacy have already been openly raised in discussions. Ms McLeod SC will be conspicuously the last LCA President and Executive member to serve in that role and will face obvious challenges in implementing an agenda, which includes advancement of Victorian barristers. This will have reputational impacts both for the LCA and the Victorian Bar. Ms McLeod SC is also a standard-bearer and leading-light for Victorian women barristers and women barristers nationally, consideration should also be given to the perception of a President effectively orphaned by the Bar she has served with distinction throughout her career.

Future Work of the LCA

In addition to the ongoing work of the LCA and major campaigns described above, the LCA in 2017 will focus on:

- Undertaking a landmark research project, the National Justice Inquiry;
- Phase 3 of the Legal Aid Matters Campaign;
- Issues confronting Indigenous prisoners and children in custody;
- Diversity and Inclusion, roll out of the equitable briefing policy and new cultural diversity initiatives;
- Intelligence on new work, new knowledge and new areas of law; and
- Exploring new ways for barristers to practice and new markets.

Concluding remarks

There are real and significant challenges to be addressed by Victorian barristers. The response to these challenges requires a strong, united profession.

The Australian legal profession has stood under the banner of the Law Council of Australia since 1933.

The LCA is an effective, influential and active body with a strong reputation, both nationally and internationally.

Through the LCA, the VBC has its best opportunity to address the challenges facing Victorian barristers, which affect barristers throughout Australia and internationally.

Withdrawal of the Victorian Bar from LCA will weaken the profession as a whole. We do not believe that the case is made for the VBC to be better off alone.

The LCA would welcome deeper engagement of the VBC and Victorian barristers in the national peak body, which will be to the benefit of the Bar and the wider profession.

Attachment A – Measuring LCA influence on Policy Matters

Recent Outcomes / Performance Measures

From 1 July 2015 until 27 May 2016 there have been 103 Mentions of the LCA by Parliamentarians in Commonwealth Hansard:

Party	Mentions
Coalition	37
ALP	51
Greens	10
Independents (incl PUP)	5
Total	103

These mentions relate to the following topics:

Issue	Mentions
Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015	15
Parliamentary Joint Committee on Intelligence and Security - Australian Citizenship Amendment (Allegiance to Australia) Bill 2015	12
Royal Commission into Trade Union Governance and Corruption	10
Legal and Constitutional Affairs Legislation Committee	6
Parliamentary Joint Committee on Intelligence and Security	6
Building and Construction Industry (Improving Productivity) Bill 2013 [No. 2], Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 [No. 2]	5
Selection of Bills Committee	5
Australian Citizenship Amendment (Allegiance to Australia) Bill 2015	4
Joint Standing Committee on Treaties	4
Economics Legislation Committee	3
Education and Employment Legislation Committee	3
Migration Amendment (Strengthening Biometrics Integrity) Bill 2015	3
Standing Committee on Environment - Register of Environmental Organisations	3
Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill 2015	3
Establishment of a National Integrity Commission - Adequacy of the Australian government's framework for addressing corruption and misconduct	2
Finance and Public Administration References Committee - Aboriginal and Torres Strait Islander experience of law enforcement and justice services	2
Legal and Constitutional Affairs References Committee	2
Corporations Amendment (Crowd-sourced Funding) Bill 2015	1
Courts Administration Legislation Amendment Bill 2015	1

Criminal Code Amendment (Firearms Trafficking) Bill 2015	1
Department of Immigration and Border Protection: Advisory Council (Question No. 2055)	1
Environment and Communications References Committee - Threat of marine plastic pollution in Australia	1
Environment Protection and Biodiversity Conservation Act 1999	1
Federation Chamber Solomon Electorate: Mr Kevin Kadingamar	1
Justice Reinvestment	1
Migration Amendment (Complementary Protection and Other Measures) Bill 2015	1
Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015	1
Migration Amendment (Character Cancellation Consequential Provisions) Bill 2016	1
National Integrity Commission Bill 2013	1
Social Policy and Legal Affairs Committee	1
Standing Committee on Social Policy and Legal Affairs - Surrogacy	1
Veterans' Affairs Legislation Amendment (Single Appeal Path) Bill 2016	1

During this period the LCA has appeared at 15 Parliamentary Committee public hearings:

Date	Title
17 July 2015	Education and Employment References Committee - Australia's temporary work visa programs
4 August 2015	Parliamentary Joint Committee on Intelligence and Security - Australian Citizenship Amendment (Allegiance to Australia) Bill 2015
18 September 2015	Standing Committee on Environment - Register of Environmental Organisations
22 September 2015	Foreign Affairs, Defence and Trade References Committee - Australia's bilateral aid program in Papua New Guinea
22 September 2015	Economics Legislation Committee
17 November 2015	Joint Standing Committee on Foreign Affairs, Defence and Trade - Australia's advocacy for the abolition of the death penalty
14 December 2015	Parliamentary Joint Committee on Intelligence and Security
5 February 2016	Legal and Constitutional Affairs Legislation Committee
12 February 2016	Legal and Constitutional Affairs Legislation Committee - Family Law Amendment (Financial Agreements and Other Measures) Bill 2015
18 February 2016	Legal and Constitutional Affairs References Committee - Revenge Porn
25 February 2016	Standing Committee on Social Policy and Legal Affairs - Surrogacy
4 March 2016	Finance and Public Administration References Committee - Aboriginal and Torres Strait Islander experience of law enforcement and justice services
15 March 2016	Legal and Constitutional Affairs References Committee - Alcohol

	fuelled violence
28 March 2016	Establishment of a National Integrity Commission - Adequacy of the Australian government's framework for addressing corruption and misconduct
2 May 2016	Joint Standing Committee on Treaties - Treaties tabled on 2 February and 2 March 2016

There have been 23 mentions of the LCA by witnesses appearing before Parliamentary Committee public hearings, including from the following organisations:

Organisation	Mentions
Attorney-General's Department (AGD)	5
Australian Competition and Consumer Commission (ACCC)	1
Australian Human Rights Commission (AHRC)	1
Australian Institute of Criminology (AIC)	1
Australian Securities and Investment Commission (ASIC)	1
BCC	1
Comcare	2
Commonwealth Lawyers' Association	1
Department of the Treasury	1
Department of Veteran's Affairs	1
Federation of Ethnic Communities' Council of Australia (FECCA)	1
Minerals Council of Australia (MCA)	1
Northern Australia Aboriginal Justice Agency (NAAJA)	1
Private Capacity	2
Refugee Council of Australia	1
Tobin Centre of Public Law	1
Women's Legal Service Queensland	1
Total	23

Submissions made from 1 July 2015 to 30 June 2016:

Date	Submission Title	Recipient	Author
01-Jul-15	<u>Implementation of Kendall Report recommendations</u>	DIBP	LCA
03-Jul-15	<u>Better Targeting the Income Tax Transparency Laws</u>	Treasury	BLS
08-Jul-15	<u>Business Set-up, Transfer and Closure - Response to Draft Report</u>	Productivity Commission	BLS
09-Jul-15	<u>Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015 -</u>	Joe Hockey	BLS

	<u>Exposure Draft</u>		
10-Jul-15	<u>Australian Citizenship: Your Right, Your Responsibility</u>	DIBP	LCA
13-Jul-15	<u>Inquiry into violence, abuse and neglect against people with disability in institutional and residential settings</u>	Senate Community Affairs References Committee	LCA
14-Jul-15	<u>Public Consultation: Expanded use of automated processes by IP Australia</u>	IP Australia	BLS
17-Jul-15	<u>Australian Citizenship Amendment (Allegiance to Australia) Bill 2015</u>	Parliamentary Joint Committee Intel & Security	LCA
17-Jul-15	<u>Submission on Foreign Investment Reforms – Draft Legislation</u>	Treasury	BLS
23-Jul-15	<u>Superannuation Trustee Governance</u>	APRA	LCA
24-Jul-15	<u>Payments of cash or other inducements by the Commonwealth in exchange for the turn back of asylum seeker boats</u>	Senate Legal & Constitutional Affairs Committee	LCA
24-Jul-15	<u>China-Australia Free Trade Agreement (ChAFTA)</u>	Joint Standing Committee on Treaties	LCA
31-Jul-15	<u>TD2015-D2: Assessability of Partner Retirement Amounts</u>	ATO	BLS
05-Aug-15	<u>Australia-Vietnam 2015 Human Rights Dialogue: Civil Society Consultation</u>	DFAT	LCA
10-Aug-15	<u>Defence Trade Controls Act 2012</u>	IP Australia	BLS
12-Aug-15	<u>Non-final withholding tax on transactions involving taxable Australian property – exposure draft legislation</u>	Treasury	BLS
14-Aug-15	<u>ASIC Consultation Paper 233 on remaking ASIC class orders on financial reporting</u>	ASIC	BLS
14-Aug-15	<u>Supplementary Submission – Australian Citizenship Amendment (Allegiance to Australia) Bill 2015</u>	Parliamentary Joint Committee Intel & Security	LCA
20-Aug-15	<u>Review of the Protection of Movable</u>	Attorney-Generals	LCA

	<u>Cultural Heritage Act 1986 (Cth)</u>	Department	
21-Aug-15	<u>Disclosing fees and costs in PDSs and periodic statements</u>	ASIC	LCA
21-Aug-15	<u>Consultation Paper 232 –Remaking ASIC class orders on superannuation [CO 04/1574] and [CO 06/636]</u>	ASIC	LCA
26-Aug-15	<u>Use of Regulatory Regimes in Preventing the Infiltration of Organised Crime into Lawful Occupations and Industries</u>	Victorian Law Reform Commission	LCA
01-Sep-15	<u>Response to Consultation Paper - shareholders intention statements</u>	Takeovers Panel	BLS
04-Sep-15	<u>Referendum or Plebiscite on Same-sex Marriage</u>	Senate Legal & Constitutional Affairs Committee	LCA
10-Sep-15	<u>Environment Protection and Biodiversity Conservation Amendment (Standing) Bill 2015</u>	Senate Environment & Communications Legislation Committee	LCA
11-Sep-15	<u>National Firearms Agreement Review 2015</u>	Attorney-Generals Department	LCA
16-Sep-15	<u>Inquiry into Schedule 2 of the Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015</u>	Senate Foreign Affairs, Defence & Trade Legislation Committee	LCA
17-Sep-15	<u>Inquiry into Tax and Superannuation laws Amendment (Better Targetting the Income Tax Transparency laws) Bill 2015 ('the Bill')</u>	Senate Economics Legislation Committee	BLS
18-Sep-15	<u>Draft National Greenhouse and Energy Reporting (Safeguard Mechanism) Rule 2015</u>	Dept of the Environment	BLS
21-Sep-15	<u>Review of Taxation and Commercial Decisions - Practice Direction</u>	Administrative Appeals Tribunal	BLS
21-Sep-15	<u>Traditional rights and freedoms – Encroachments by Commonwealth laws (ALRC Interim Report 127)</u>	Australian Law Reform Commission	BLS
22-Sep-15	<u>Workplace Relations Framework</u>	Productivity Commission	LCA

22-Sep-15	<u>Draft Report on Barriers to Growth in Services Exports</u>	Productivity Commission	LCA
25-Sep-15	<u>Draft PSLA 2005/24</u>	ATO	
30-Sep-15	<u>Adequacy of standards relating to the control order regime</u>	Independent National Security Legislation Monitor	LCA
01-Oct-15	<u>Consultation paper 234 - proposal to remake certain class orders relating to takeovers and schemes of engagement</u>	ASIC	BLS
02-Oct-15	<u>Criminal Code Amendment (Private Sexual Material) Bill 2015</u>	Tim Watts MP	LCA
06-Oct-15	<u>Public consultation: ACIP recommendation on the innovation patent system</u>	IP Australia	BLS
09-Oct-15	<u>Religious Freedom Roundtable</u>	Human Rights Commissioner	LCA
09-Oct-15	<u>Australia's Advocacy for Abolition of the Death Penalty</u>	Joint Standing Committee on Foreign Affairs, Defence & Trade	LCA
09-Oct-15	<u>Interim Report into Traditional Rights and Freedoms - Encroachment by Commonwealth Laws</u>	Australian Law Reform Commission	LCA
14-Oct-15	<u>Threat of Marine Plastic Pollution in Australia</u>	Senate Standing Committees on Environment & Communications	LCA
16-Oct-15	<u>Migration and Maritime Powers Amendment Bill (No.1) 2015 [Provisions] (Cth)</u>	Senate Legal & Constitutional Affairs Committee	LCA
21-Oct-15	<u>Proposed Industry Funding Model for the Australian Securities and Investment Commission</u>	Treasury	BLS
23-Oct-15	<u>Review of the Small Amount Credit Contract Laws</u>	Treasury	LCA
23-Oct-15	<u>Consultation Package - Governance arrangements for Superannuation</u>	APRA	LCA

	<u>trustees</u>		
26-Oct-15	<u>Agreement between the Government of Australia and the Government of the Republic of India concerning Transfer of Sentenced Persons</u>	Joint Standing Committee on Treaties	LCA
28-Oct-15	<u>Australian Securities and Investment Commission Amendment (Corporation and Markets Advisory Committee Abolition) Bill 2014 (Cth)</u>	Kelly O'Dwyer MP	BLS
29-Oct-15	<u>Guidance paper: Negative Control and the application of Division 6C</u>	ATO	BLS
30-Oct-15	<u>Foreign Investment Reforms - Draft Regulations</u>	Treasury	BLS
16-Nov-15	<u>Proposed examination practice following D'Arcy v. Myriad Genetics Inc.</u>	IP Australia	BLS
20-Nov-15	<u>Proposal to amend Legal Profession Uniform Law to include Bankruptcy Trustees within definition of 'commercial or government client'</u>	Legal Services Council	BLS
26-Nov-15	<u>Migration Amendment (Complementary Protection and Other Measures) Bill 2015</u>	Senate Legal & Constitutional Affairs Committee	LCA
27-Nov-15	<u>National Tax Practice Consultation Process: Draft Taxation National Practice Note</u>	Federal Court of Australia	BLS
01-Dec-15	<u>Intellectual Property Arrangements</u>	Productivity Commission	BLS
04-Dec-15	<u>OAIC consultation on developing a data breach response plan</u>	Office of the Australian Information Commissioner	BLS
07-Dec-15	<u>Small Business Restructure Taxation Rollovers</u>	Treasury	BLS
10-Dec-15	<u>Counter-Terrorism Bill (No.1) 2015</u>	Parliamentary Joint Committee Intel & Security	LCA
15-Dec-15	<u>Response to Consultation Paper - Reverse Takeovers</u>	ASX Limited	BLS

17-Dec-15	<u>Repealing the best method requirement</u>	IP Australia	BLS
17-Dec-15	<u>Section 19 of the Designs Act 2003</u>	IP Australia	BLS
18-Dec-15	<u>Review into the Taxpayers' Charter and taxpayer protections</u>	Inspector-General of Taxation	BLS
06-Jan-16	<u>Criminal Code Amendment (Firearms Trafficking) Bill 2015</u>	Senate Legal & Constitutional Affairs Committee	LCA
06-Jan-16	<u>Corporations Amendment (Professional Standards of Financial Advisers) Bill 2015</u>	Treasury	LCA
06-Jan-16	<u>Corporations (Life Insurance Remuneration Arrangements) Bill 2015</u>	Treasury	LCA
07-Jan-16	<u>Crimes Legislation Amendment (Proceeds of Crime and Other Measures) Bill 2015</u>	Senate Legal & Constitutional Affairs Committee	LCA
11-Jan-16	<u>Courts Administration Legislation Amendment Bill 2015</u>	Senate Legal & Constitutional Affairs Committee	LCA
11-Jan-16	<u>Supplementary Submission - Use of Regulatory Regimes in Preventing the Infiltration of Organised Crime into Lawful Occupations and Industries</u>	Victorian Law Reform Commission	LCA
13-Jan-16	<u>Inquiry into the phenomenon colloquially referred to as 'revenge porn'</u>	Senate Legal & Constitutional Affairs Committee	LCA
14-Jan-16	<u>Improved superannuation transparency consultation</u>	Treasury	LCA
15-Jan-16	<u>Inquiry into Tax Deductibility</u>	House of Representatives Standing Committee on Economics	BLS
18-Jan-16	<u>Telecommunications Sector Security Reforms</u>	Attorney-Generals Department	LCA
19-Jan-16	<u>Family Law Amendment (Financial Agreements and Other Measures) Bill 2015</u>	Senate Legal & Constitutional Affairs Committee	LCA

20-Jan-16	<u>Consultation on draft Federal Court Central Practice Note and draft National Court Framework Practice Notes</u>	Federal Court of Australia	LCA
22-Jan-16	<u>Exposure Draft Taxation Administration Amendment (Disclosure of Information) Regulation 2016</u>	Treasury	LCA
22-Jan-16	<u>Exposure Draft: Superannuation Legislation Amendment (Governance) Bill 2015: Extending superannuation choice to Enterprise Agreements and Workplace Determinations</u>	Treasury	LCA
29-Jan-16	<u>Submission on the proposed Joint General Comment on the human rights of children in the context of international migration</u>	United Nations Committee on the Rights of the Child and Committee on Migrant Workers	LCA
01-Feb-16	<u>Willing to Work: National Inquiry into Employment Discrimination against Older Australians</u>	Australian Human Rights Commission	LCA
04-Feb-16	<u>Harmonisation of Court Rules - Corporate and Personal Insolvency and Remuneration of Insolvency Practitioners</u>	Federal Court of Australia	BLS
05-Feb-16	<u>Inquiry into a Suitable Model for the Implementation of the National Injury Insurance Scheme ("Inquiry")</u>	Communities, Disability Services and Domestic and Family Violence Prevention Committee	LCA
05-Feb-16	<u>2016-17 Federal Budget</u>	Treasury	LCA
02-Feb-16	<u>Inquiry into Corporations Amendment (Crowd-Sourced Funding) Bill 2015 (CSEF Bill)</u>	Senate Economics Legislation Committee	BLS
06-Feb-16	<u>Corporations (Life Insurance Remuneration Arrangements) Bill 2015</u>	Treasury	LCA
06-Feb-16	<u>Corporations Amendment (Professional Standards of Financial Advisers) Bill 2015</u>	Treasury	LCA
08-Feb-16	<u>Review of the 2016-17 Skilled Occupations List (SOL)</u>	Dept of Education & Training	LCA
11-Feb-16	<u>Copyright Amendment (Disability Access</u>	Dept Communications and	BLS

	<u>and Other Measures) Act 2016 - Exposure Draft</u>	the Arts	
12-Feb-16	<u>Options to Strengthen the Misuse of Market Power Law</u>	Treasury	BLS
15-Feb-16	<u>Inquiry into human trafficking</u>	Joint Committee on Law Enforcement	LCA
18-Feb-16	<u>Inquiry into Surrogacy</u>	House of Representatives Standing Committee on Social Policy and Legal Affairs	FLS
19-Feb-16	<u>Re-establishment of the Australian Building and Construction Commission</u>	Senate Education and Economics Legislation Committee	LCA
24-Feb-16	<u>Fair Work Amendment (Gender Pay Gap) Bill 2015</u>	Senate Education and Employment Committee	LCA
25-Feb-16	<u>Income Tax: cross-border profit allocation - review of transfer pricing rules</u>	Treasury	BLS
25-Feb-16	<u>Inquiry into Tax Laws Amendment (New Tax System for Managed Investment Trusts) Bill 2015 and associated bills</u>	Senate Economics Legislation Committee	BLS
02-Mar-16	<u>Trade in Legal Services under an Australia-European Union Free Trade Agreement</u>	DFAT	LCA
03-Mar-16	<u>Draft class actions practice note</u>	Federal Court of Australia	LCA
03-Mar-16	<u>Tax Incentives for Early Stage Investors</u>	Treasury	BLS
04-Mar-16	<u>Exposure draft - Privacy Amendment (Notification of Serious Data Breaches) Bill 2015</u>	Attorney-Generals Department	LCA
04-Mar-16	<u>Migration Amendment (Characters Cancellation Consequential Provisions) Bill 2016</u>	Senate Legal & Constitutional Affairs Committee	LCA
04-Mar-16	<u>Foreign Investment Review Board (FIRB): Tax Conditions</u>	Treasury	BLS

11-Mar-16	<u>Trade in Legal Services under Chapter 10 (Cross Border Trade in Services) of the Trans-Pacific Partnership Agreement</u>	Joint Standing Committee on Treaties	LCA
11-Mar-16	<u>457 Programme - Temporary Skilled Migration Income Threshold (TSMIT)</u>	DIBP	LCA
11-Mar-16	<u>Inquiry into the External Scrutiny of the Australian Tax Office</u>	House of Representatives Standing Committee on Economics	BLS
17-Mar-16	<u>Submission on the Conditions and treatment of asylum seekers and refugees at the regional processing centres in the Republic of Nauru and Papua New Guinea</u>	Senate Legal & Constitutional Affairs Committee	LCA
18-Mar-16	<u>Supporting innovation through visas: the Entrepreneur Visa</u>	DIBP	LCA
24-Mar-16	<u>Treaty on Extradition Between Australia and the People's Republic of China</u>	Joint Standing Committee on Treaties	LCA
24-Mar-16	<u>Foreign Investment Reforms - Draft Regulations</u>	Treasury	BLS
31-Mar-16	<u>Submission on the Fair Work Amendment (Protecting Australian Workers) Bill 2016</u>	Senate Education and Employment Committee	LCA
31-Mar-16	<u>Need for a national-consistent approach to alcohol-fuelled violence</u>	Senate Committee on Legal and Constitutional Affairs	LCA
06-Apr-16	<u>Objective of Superannuation</u>	Treasury	LCA
08-Apr-16	<u>LCG 2015/D1 - Law Companion Guidelines</u>	ATO	BLS
18-Apr-16	<u>Migration Amendment (Family Violence and Other Measures) Bill 2016</u>	Senate Legal & Constitutional Affairs Committee	LCA
20-Apr-16	<u>Establishment of a National Integrity Commission</u>	Select Committee on the Establishment of a National Integrity Commission	LCA
20-Apr-16	<u>Superannuation efficiency and competitiveness</u>	Productivity Commission	LCA

22-Apr-16	<u>National Innovation and Science Agenda - Increasing Access to Company Losses</u>	Treasury	BLS
29-Apr-16	<u>Removal of appeal rights for decisions under ASX Listing Rules</u>	ASX Limited	BLS
29-Apr-16	<u>Removal of appeal rights for decisions under ASX Listing Rules - letter to ASIC</u>	ASIC	BLS
02-May-16	<u>Public Consultation Paper March 2016 - Improving Enforcement Options for Serious Corporate Crime: Considered of a Deferred Prosecution Agreements Scheme in Australia</u>	Attorney-Generals Department	BLS
03-May-16	Foreign Residents Capital Gains Withholding Tax	Assistant Treasurer	LCA
06-May-16	Inquiry into the Treaty on Extradition Between Australia And The People's Republic Of China - Question on Notice	Joint Standing Committee on Treaties	LCA
26-May-16	<u>National Innovation and Science Agenda - Improving bankruptcy and insolvency laws</u>	Commonwealth Treasury	BLS
27-May-16	<u>Optional Protocol to the Convention against Torture in the context of Youth Justice Detention Centres</u>	National Children's Commissioner, AHRC	LCA
27-May-16	<u>Definition of 'owner' - Customs Act 1901 - Draft Department of Immigration and Border Protection (DIBP) Notices (DIBPN) 2016/12 and 2016/13</u>	Department of Immigration and Border Protection	BLS
27-May-16	<u>Draft Tax Conditions Guidance Note</u>	Commonwealth Treasury	BLS
3-June-16	<u>Response to the Draft Report - Australia's IP Arrangements</u>	Productivity Commission / Treasury	BLS
16-June-16	<u>Questioning and detention powers</u>	Independent National Security Legislation Monitor	LCA
20-June-16	<u>Australia-Vietnam 2016 Human Rights Dialogue: Civil Society Consultation</u>	Department of Foreign Affairs and Trade	LCA

23-June-16	<u>Technology neutrality in distributing company meeting notices and materials</u>	Commonwealth Treasury	BLS
23-June-16	<u>Australian Consumer Law Review (BLS)</u>	Commonwealth Treasury	BLS
24-June-16	<u>ASIC Consultation paper 257: Improving disclosure of historical financial information in prospectuses ASX Consultation Paper: Updating ASX's admission requirements for listed entities</u>	ASIC	BLS
24-June-16	<u>ASIC Consultation paper 257: Improving disclosure of historical financial information in prospectuses ASX Consultation Paper: Updating ASX's admission requirements for listed entities</u>	ASIC	BLS
30-June-16	<u>Australian Consumer Law Review (LPS)</u>	Commonwealth Treasury	LPS
30-June-16	<u>Advocating for Small Businesses and Family Enterprises - Discussion Paper: April 2016</u>	Australian Small Business and Family Enterprise Ombudsman	BLS
30-June-16	<u>Treasury Consultation Paper: Implementing a Diverted Profits Tax, May 2016</u>	Commonwealth Treasury	BLS

**Attachment B – Briefing provided to the Victorian Bar Council on
Law Council Activities**



Key Issues for the Legal Profession

**Some Key Areas of Activity
for the
Law Council of Australia**

**A Short Briefing
for the
The Victorian Bar**

June 2016

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The Law Council of Australia

1. The Law Council of Australia is an independent body that forms an essential part of the checks and balances framework in Australia's democracy. It represents the legal profession, through its Constituent Bodies, at the national level. Including through a state and territory coordination role, the Law Council makes and takes opportunities to promote the interests of all lawyers – the Australian legal profession – on national and international issues.
2. The Law Council is a trusted, balanced, independent and credible advocate of the Australian legal profession. The federal government and opposition, federal parliamentarians, courts and federal agencies routinely consult the Law Council on ways in which the law and the justice system might be improved for the benefit of

the legal profession and the broader community. We also play a crucial role in holding Government to account in promoting and defending the rule of law in the public interest.

3. In addition, the Law Council engages with the media to advocate on issues impacting on lawyers and affecting rule of law, access to justice, civil rights and law reform, the administration of justice and legal practice.
4. The Law Council works with the Australian and foreign Governments as well as counterpart peak bodies overseas to establish the right of Australian lawyers to practise in foreign jurisdictions and create opportunities for Australian lawyers to win work internationally.
5. The Law Council also advocates for the rule of law and the independence of the legal profession with a particular focus on our region.
6. Because the Law Council speaks for the whole of the Australian legal profession, it commands a significant level of influence and respect, both within government and in the broader community. That is reflected in the willingness of the media to report its views and politicians and bureaucrats to ascribe significant importance to the Law Council's submissions.
7. Over the past few months the Law Council has devoted considerable time and effort to enhancing its political and media engagement. This has taken the form of regular and sustained contact with government ministers, their advisors, other politicians and their staff, senior departmental officers and other peak representative bodies ranging from the Business Council of Australia to the Australian Medical Association. Similarly, the Law Council has adopted a more targeted approach to the media with the objective of converting any statement or release into a substantive radio or TV interview or print/online article.
8. Moving from a reactive to a proactive approach has delivered a much higher level of recognition and impact. Consequently, the Law Council is much better able to represent the profession and positively influence public policy relevant to the profession.
9. This briefing paper focuses particular attention toward issues that the Law Council is currently addressing, which are of relevance to the Bar and its members.

Key Domestic Issues

Addressing the legal aid crisis

10. The Law Council has developed and is now coordinating the nationwide Legal Aid Matters Campaign, which is of significant relevance to the entire legal profession and engages one of the Law Council's primary objectives, promoting access to justice for all Australians. This campaign will continue through a series of phases over the coming months.

11. Importantly, the Legal Aid Matters Campaign has direct relevance to Victorian barristers and their clients, who have been harshly affected by reductions in Commonwealth legal aid expenditure over many years.
12. The objective of the Legal Aid Matters campaign is to bring the crisis in legal aid to national attention with a view to encouraging the major parties to commit to providing adequate funding to the Australian legal assistance sector – Legal Aid Commissions, Aboriginal and Torres Strait Islander legal services, Community Legal Centres, and Family Violence Prevention Legal Services.
13. As part of the planning phase the Law Council commissioned a series of focus groups to fine tune the campaign messaging and themes. This ensured that the Legal Aid Matters was launched on the first day of Law Week, 16 May 2016. In launching the campaign the Law Council released new data revealing that each year some 10,000 Australians appear before the courts unrepresented due to cuts in legal aid.
14. A campaign website (<http://legalaidmatters.org.au>) went live as part of the launch. The website includes a sophisticated digital advocacy platform (Campaign) that allows the public to quickly and easily send unique emails directly to their local MP. Legal Aid Matters [Facebook](#) and [Twitter](#) accounts were also created. Rallies around Australia were attended by 1500-2000 people.
15. Media coverage of the first week of the campaign alone resulted in [175 stories \(print/online/radio and TV\)](#) reaching around 8 million Australians. The equivalent advertising value of this coverage is around \$1.75 million. To date, over 1600 unique emails have been sent to MPs and over 2600 people have signed the petition.
16. Polling undertaken by the Law Council (18-22) May evidenced the impact of the campaign in terms of public opinion with 81% of Australians agreeing that:

In Australia, anyone who encounters a serious legal issue, but cannot afford a lawyer, should be able to rely on legal representation being provided through legal aid.
17. The Law Council is grateful to members of the Victorian Bar – and in particular, Campaign Co-Chair Dr David Neal SC – for their enthusiasm and tireless efforts in making the launch of the Campaign a success. The Campaign will continue into successive phases with a view to securing a \$350m commitment from the Federal Government for legal assistance services in all jurisdictions.

Anti-money laundering and counter-terrorism financing

18. The Australian legal profession faces the prospect of further, extensive, regulation with the extension of Australia's AML/CTF regime to include the legal profession – including the bar. If implemented, this would include an obligation on barristers and solicitors to report 'suspicious transactions' to a government agency, notwithstanding the obligations of confidence we owe to our clients.

19. The Law Council has played an active role in resisting the blanket application of the AML/CTF regime since 2003. It has consistently argued against the imposition of measures that would increase the regulatory burden on barristers and adversely affect client/lawyer confidentiality, particularly when the regime has not been demonstrated to be necessary or effective.
20. The issue is now coming to a head with the release of the report of the statutory review of Australia's AML/CTF legislation in May. That report recommended that the AML/CTF regime be extended to the legal profession. There is considerable support in the federal bureaucracy and amongst law enforcement agencies for Government to implement that recommendation. It is clear that most of those agitating for this to occur have no proper understanding, either of the role of the legal profession or the importance of the lawyer/client relationship to the proper administration of justice.
21. The Law Council is engaging extensively with the Australian Transactions Reports and Analysis Centre, the Attorney-General's Department, relevant federal ministers, members of the Shadow Ministry and other officials to explain the profession's concerns. At this stage, the Law Council has extracted undertakings to the effect that, first, the Government will undertake an independent cost/benefit analysis on the extension of the regime to the legal profession. Second, no attempt will be made to extend the regime to the profession until that analysis has been completed.
22. The Law Council recognises that the profession will have to take steps to address AML/CTF concerns. To that end it is working with government to develop a proposal that will be acceptable to the profession and which will preserve the client/lawyer relationship and our obligations of confidence.
23. The Law Council is also continuing to develop educational and guidance material for the profession as part of its response, including specific material for barristers. To that end, the Law Council has been in discussions with the Bar Council of England and Wales which has provided both advice in relation to the impact that AML/CTF legislation has had on barristers in the UK and access to its extensive guidance material.

Diversity and inclusion

24. The Law Council has made significant commitments to address diversity and inclusion over the past two years. This has built upon extensive work over a decade to support women lawyers at the private bar.
25. The Law Council has developed a Charter that has been unanimously adopted by the constituent bodies
26. The Law Council has recently finalised an agreement for the development of an unconscious bias training program through Symmetra and will fund the entire upfront investment in its development. The program will be tailored for legal practitioners, available both online and face-to-face for end-users and will be

offered for marketing through constituent bodies' CLE programs, which delivers significant value and commercial opportunities for all constituent bodies, including the Victorian Bar.

27. The Law Council has recently revised and approved a model National Equitable Briefing Policy in conjunction with state and territory bar associations, law societies, firms, government and corporate counsel. Implementation of the policy once completed will include: the promotion of the policy by barristers, firms and clients; and data collection and reporting. The policy is in a form that can be adopted by a person or entity that recommends or briefs Australian barristers.

Cybersecurity for the legal profession

28. The cyber threat faced by Australian businesses and professions, including law firms and chambers, is growing at an alarming rate, with the incidence of cyber attacks increasing from 313 attacks in 2011, to 1131 in 2015.
29. Most of the large firms are investing considerable resources in managing cyber risks. However, barristers' chambers and medium and smaller firms struggle to meet the demands of cybersecurity threats. In large part this is probably due to a lack of information.
30. In response to these concerns, the Law Council is working in partnership with the legal profession, its Constituent Bodies, partner stakeholders, industry and government, to formulate a cybersecurity information campaign for the legal profession, which include a specific component addressing the specific challenges facing barristers.

Indigenous issues

31. The Law Council is a key consultative body in relation to reform of federal legislation affecting Indigenous Australians, including the *Native Title Act 1993* (Cth), environmental and cultural heritage protection laws, the *Racial Discrimination Act 1975* (Cth) and *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).
32. In 2011, the Law Council became the first peak legal organisation to develop and launch a Reconciliation Action Plan, leading a number of its constituent bodies (including the Victorian Bar) to do the same.
33. The Law Council is one of the leading civil society organisations with a strong, national focus on legal issues affecting Indigenous Australians and has provided strong leadership for the entire profession on this issue. This work has been contributed to and significantly enhanced by members of the Victorian Bar.
34. The Law Council engages closely with key national indigenous and non-Indigenous organisations on Indigenous policy issues and has been highly influential in federal law reform and policy development.

35. For example, on 26 November 2015, the Law Council convened a national [Indigenous Imprisonment Symposium](#) into incarceration of Aboriginal and Torres Strait Islander people. The Symposium drew together some of the nation's leading legal experts and community leaders to examine the issue and put forward constructive approaches for addressing the crisis. The Law Council continues to be a leading national voice calling for action on Indigenous imprisonment, including in relation to removal of mandatory sentencing legislation, establishing justice targets and a national framework on Indigenous law and justice, through the Council of Australian Governments.
36. The Law Council has also been closely engaged in the process towards a referendum on constitutional recognition of Indigenous Australians. The Law Council was engaged by the Expert Panel on Constitutional Recognition in 2011 and 2012 to conduct legal roundtables, including with senior members of the Victorian Bar. The Law Council has continued to engage closely with members of the Referendum Council established by the Turnbull Government, as is likely to be asked to assist in further expert consultations at a later point.

Federal judicial appointments and resourcing

37. Through a close working relationship with the Attorney-General and Shadow Attorney-General, the Law Council has and will continue to press the Federal Government in relation to the:
- (i) proper resourcing for all federal courts, including through the reinvestment of administrative savings and provision of judicial pensions for Federal Circuit Judges; and
 - (ii) the timely filling of judicial vacancies through a transparent and merit-based appointment process.

Criminal justice law reform

38. The Law Council continues to play a key role in the area of criminal justice and the evolution of Australia's national security legislation. The Law Council's National Criminal Law Committee plays a critical role in ensuring that federal criminal and national security laws are necessary and proportionate and that the rule of law is maintained.
39. For example, the Government has tried to introduce mandatory minimum penalties for firearms trafficking offences on at least three occasions. The Law Council has been successful in persuading federal cross-bench senators that these changes should not be enacted. It has also engaged in advocacy opposing mandatory sentencing for alcohol-fuelled violence.
40. The Law Council is currently liaising with Government about a possible special advocate regime for control orders. A special advocates system would allow each State and Territory to have a panel of security-cleared barristers who may

participate in closed material procedures whenever necessary including, but not limited to, any proposed confirmation of a control order. The Law Council is also working with Government regarding possible Government initiatives to introduce a post-sentencing detention regime for terrorist offenders.

Human rights

41. The protection and promotion of human rights within Australia and in our region is a key strategic objective of the Law Council. The Law Council regularly engages in advocacy regarding legislation, individual cases, and international incidents that give rise to human rights concerns.
42. In two recent initiatives the Law Council has taken a leadership role in developing a human rights policy and promoting business and human rights.
43. The Law Council's recently adopted *Policy Statement on Human Rights and the Legal Profession* is a comprehensive guide, setting out the Law Council's approach to national and international issues affecting human rights and individual liberties.
44. Business and human rights is increasingly reflected in public policy, law and regulation, in commercial agreements, in international standards that influence business behaviour, in the advocacy of civil society organisations, and in the policies and processes of companies worldwide. It is this environment that all lawyers should be aware of. The United Nations Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in 2011, are relevant to a lawyer's professional responsibilities. A lawyer may be expected to act in one or more of three roles – as a technical expert, as wise counsellor, and an effective leader. It is these roles, and associated skills, that the International Bar Association (IBA) and the Law Council are aiming to develop. The Law Council is proud to be working with the IBA on a curricula and a handbook, training practitioners (in-house and external lawyers) on business and human rights as part of a world first training program for the legal profession. The IBA has scheduled the completion of the handbook by February 2017 and the training by July 2017, with sessions in all the major capital cities. This timeline has been arranged to enable the IBA and the Law Council to showcase the pilot training at the IBA Annual Conference in Sydney in October 2017. It is envisaged that the pilot training program will subsequently be rolled out internationally, based upon the data obtained from the Australian program.
45. The Law Council strongly supports the enactment of a national Bill of Rights and notes that this coincides with and complements the Victorian Bar's principled support of the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

The future of the legal profession

46. The Law Council is a forward-thinking organisation with an eye toward the future of the Australian legal profession.

47. The Law Council's Legal Profession Futures Committee is chaired by Michael Colbran QC, a former President of the Law Council. It was established in 2015 to assist the profession, including barristers, in identifying the major factors driving change in the legal profession, in the short, medium and long term.
48. The objective is to provide the profession the information it needs to adapt to these changes and, wherever possible, shape these changes. For example, a key change driver likely to affect the whole profession (including barristers) is disruptive technological change – this is seen by many as the primary change driver, and seems likely to affect both practice/ chambers structures and working patterns, as well as the modes of service delivery and range of services offered by all lawyers.
49. The Committee will produce guidance for barristers on bar-specific issues in recognition of the unique nature of the bars (e.g. the structure of chambers) and thus the specific ways in which the above factors might affect barristers. The final output of the Working Group addressing this area will probably constitute a paper and podcast, and will follow on from the completion of work in the other modules.

Lawyers in rural, regional and remote communities

50. The Law Council has for a number of years been focussed on addressing the steady decline in the exodus of lawyers from rural, regional and remote (RRR) communities. A Law Council survey conducted in 2009 indicated that this problem would continue to worsen in coming years.⁴ The Law Council believes that any measures aimed at encouraging members of the legal profession to RRR areas are likely to complement similar initiatives already in place in regard to other professions.
51. In 2010-11, the Law Council carried out a major, \$250,000 "RRRLaw" campaign, which promotes legal careers in RRR areas (see <http://rrrlaw.com.au/>).
52. The Law Council has recently rejuvenated its RRR Committee and includes this issue in the Law Council's policy platform in the lead up to the Federal Election, in anticipation of launching a major campaign over the coming year.

Harmonisation initiatives

53. The Law Council continues to represent the Australian legal profession's position in relation to a series of harmonisation initiatives. These include work involving the National Disability Insurance scheme/National Injury Insurance scheme (NDIS/NIIS), proportionate liability, OH&S laws, evidence law, and issues affecting the exercise of coercive federal powers.

The Sections

⁴ Law Council of Australia, Report into the Rural, Regional and Remote Areas Lawyers Survey, July 2009, available at http://rrrlaw.com.au/media/uploads/RRR_report_090709.pdf

54. The Law Council is grateful for the contribution of several Victorian bar members to the work of the Law Council's Sections. Many members of the Victorian Bar offer valuable contributions to the work of the Business Law Section (BLS), Federal Litigation and Dispute Resolution Section (FLDRS), the Legal Practice Section (LPS) and the International Law Section (ILS). The following provides a small snapshot of the extensive and valuable work contributed by these specialist sections.

Business Law Section

55. There are 46 Victorian barristers sitting on Committees of the BLS. Some matters currently under consideration by the BLS Executive include: input into the program for the IBA's annual conference to be held in Sydney in October 2017; the establishment of a BLS' Young Lawyers Advisory Group; a review of the BLS by-laws; and monitoring of the BLS' conference, workshop and seminar program for 2016-2017.
56. Since February 2016, the BLS has lodged twenty submissions, including in relation to:
- (i) managed investment trusts;
 - (ii) Trans-Pacific partnership commenting on intellectual property;
 - (iii) the causes and consequences of the collapse of listed retailers in Australia;
 - (iv) the removal of appeals rights for decisions under the ASX Listing Rules.
57. Since February 2016, BLS representatives have participated in twelve external meetings. Representatives have met with the Foreign Investment Review Board, participated in the National Tax Liaison Group, attended a Stakeholder Roundtable for the National Innovation and Science Agenda Insolvency Measures and appearing at a Senate Committee Public Hearing into the National Integrity Commission.

Federal Litigation and Dispute Resolution Section

58. There are eighteen Victorian Bar members on the FLDRS. Priority issues in recent months for the FLDRS have included resourcing of the federal courts, timely filling of judicial vacancies, amendments to the Corporations Act through the Legislative and Governance Forum for Corporations to confer corporate insolvency jurisdiction on the Federal Circuit Court, dismantling of dual regulation of migration lawyers and greater funding for legal aid and community legal centres.
59. Recent networking and CPD events have included: President-elect Fiona McLeod SC delivered after-dinner remarks at the AAT National conference in Queensland on 24 May 2016; on 19 May 2016 the Industrial Law Committee co-hosted with the Law Society of South Australia a highly successful 'recent developments in industrial law seminar'; on 23 May 2016 the Commonwealth Compensation and Employment Law Committee hosted a ['Hot Topics in Commonwealth Compensation' CPD event](#) in

Melbourne. Planning has begun for the [2017 CPD Immigration Law Conference](#) and for a Class Actions Conference to be held in Sydney in October 2016.

60. The FLDRS engages in regular liaison meetings with the Chief Justices of the Federal Court and Federal Circuit Court and the President of the AAT. The FLDRS also publishes influential communiques and statements with respect to client legal privilege, industrial law, class actions and litigation funding and environment law.

Legal Practice Section

61. There are two Victorian Bar members on the LPS. On 3 May 2016 the Australian Property Law Group of the LPS, through the Law Council President, together with counterparts in the Law Society of New South Wales and the Law Institute of Victoria, wrote to the Assistant Treasurer and Minister for Small Business, the Hon Kelly O'Dwyer MP, urging that the implementation of the new foreign resident tax withholding payment regime (tax measure), be deferred for 12 months, or additional policy initiatives be introduced. The *Tax and Superannuation Laws Amendment (2015 Measures No 6) Act 2015* applies to contracts made on or after 1 July 2016. It will have a broad impact across legal practice and the wider business community. The initiative applies to Australians who purchase Australian property from foreign interests and Australians who purchase real estate with a market value of \$2 million or more. The Treasurer's Ministerial Communications Team replied on 10 May 2016 that as the Australian Government was in caretaker mode from 9 May 2016 until the election result is known or there is a change of government, the Government was unable to respond to correspondence that addresses policy issues.
62. The LPS has produced or is in the process of preparing a range of submissions on issues such as superannuation efficiency and competitiveness, the objective of superannuation, the Australian Consumer Law Review, public benevolent institutions, income tax assessments and an Insurance Code of Conduct. The Australian Law Management Group will host the next World Masters of Law Firm Management in Sydney on 21 July 2016 on "Digital Innovation and Transformation - the New Imperative for Organisational Success in the 21st Century". The Australian Environment and Planning Law Group is currently developing the program for its 2017 Future of Environmental Law Symposium on the theme "Business Law and the Environment".
63. The LPS' Australian Property Law Group is closely engaged in the development of the National Electronic Conveyancing System. The Personal Injuries and Compensation Committee, along with the National Disability Insurance Scheme (NDIS) Working Group has been closely engaged with Government in the development and roll-out of the NDIS and National Injury Insurance Scheme (NIIS), with a view to protection of common law and other rights. The PICC has also worked with constituent bodies to promote positive reforms to personal injury laws and compensation schemes.

International Law Section

64. There are two Victorian Bar members on the ILS. The ILS aims to provide a platform for lawyers and others interested in international law to discuss current issues, to debate and contribute to the process of law reform, and to enhance their professional skills. It works closely with the International Division and Transnational Practice Division of the Law Council is pursuing the Law Council's international strategy.
65. The Section has established a regular international law seminar series which will be held at various venues throughout the year. Speakers will cover topics such as comparative law, insights into other jurisdictions, international private law, international business law, international arbitration and international public law – including maritime law, climate law and international treaties and tribunals.
66. The inaugural session was held on 3 May 2016 in Sydney. Section Chair, Prof Dr Wolfgang Babeck, presented on 'Successes and challenges of the Australian legal system from an international perspective.' The second seminar of the series will be held on 22 June 2016. Executive member, Dr Brett Williams, will present on 'The proposed Trans Pacific Partnership Agreement – the most significant discriminatory trade and investment agreement in history'. The third seminar of the Series is planned for 11 August 2016 at Marque Lawyers, Sydney, and will feature Damian Sturzaker, Partner, marque Lawyers, Professorial Fellow of Law of UNSW and Vice-President, CIArb Australia, will present on 'Practical examples of resolving international commercial disputes'.
67. On 9 May 2016, Dr Babeck, represented the Section at a Department of Foreign Affairs and Trade roundtable to discuss the operation of Investor-State Dispute Settlement provisions within Australia and proposals to reform the International Investment Agreement regime. The ILS is investigating opportunities for collaborative work with United Nations Commission on International Trade Law (UNCITRAL) in the future.
68. The BLS and the ILS launched their joint IBA Committee on 13 April 2016 in Sydney. The role of the joint BLS/ILS IBA Committee is to promote the IBA to Australian lawyers, in particular the IBA Annual Conference 2017 which will be held in Sydney, and To ensure Australian practitioners are participating as both presenters and contributors to the over 200 sessions being conducted.
69. The Section maintains several self-funding international Chapters, which operate as a focus point for Australian lawyers overseas. Chapters are established in Hong Kong, New York and London, and the Section is considering expanding Chapters into jurisdictions such as Washington DC, Dubai, Seoul and Indonesia. These chapters provide an opportunity for visiting barristers to engage with Australian lawyers in those jurisdictions. The Hong Kong Chapter recently (16 June 2016) hosted a cocktail event featuring the Honourable. Mr. Justice Murray Gleeson AC NPJ, Non-Permanent Judge of the Court of Final Appeal of the Hong Kong Special Administrative Region.

Key International Issues

Developing opportunities overseas for the Australian legal profession

70. In July 2015 the Law Council established the Transnational Practice Division with the express objective of pursuing opportunities overseas for the Australian legal profession. In establishing the Division it recruited, with the agreement of the Federal Government, the key officials who had provided this advice until the work was defunded in 2013.
71. An example of a recent outcome has been the confirmation by the Korean Ministry of Justice that they will provide, from 1 July 2016, access for Australian lawyers to appear in international arbitration proceedings in Korea without having to register as a foreign legal consultant.
72. The Law Council now takes a strategically focussed multi-pronged approach to improving market access for Australian lawyers by working directly with the Australian and foreign governments, and peak bodies in Australia and overseas by:
 - (a) providing direct input to Australian government trade negotiators in relation to the professions' market access priorities and interests overseas.
 - identifying the type and level of market access, e.g. the right to act in arbitration/mediation proceedings or sit as an arbitrator/mediator on a fly-in, fly-out basis;
 - providing briefings to the Minister for Trade, Ministerial advisors and Department of Foreign Affairs and Trade (DFAT) in relation to the export of legal services and market access issues. Officials now routinely seek input from the Law Council across all legal services market issues before, during and in the post-agreement implementation stages of FTAs;
 - LCA's work has ensured that seeking market access for Australian lawyers, including to provide arbitration/mediation services, is now a priority for the Australian Government in all trade negotiations; and
 - identify priority markets (China, India, Indonesia, Japan, South Korea, Malaysia, Singapore, Thailand, Continental Europe, the UK and the USA) and keep priority list up-to-date.
 - (b) negotiating directly, with the support and assistance of DFAT, with foreign governments and counterpart peak bodies to eliminate 'behind-the-border' barriers to access, e.g.: seeking the removal of compulsory residency requirements to work as a foreign lawyer (Japan, Korea & China).
 - (c) working jointly with the law societies and bar associations across Australia to implement a series of seminars – the 'Legal Exports to Asia Program' (LEAP) – to provide information to assist barristers and smaller law firms engage in

international work. These will be conducted in the period August 2016 to March 2017.

73. A key area of focus is India. The Law Council is the only organisation to have reached agreement (an MOU) with the Bar Council of India to implement a meaningful market access framework for Australian lawyers to work in India. The Council is working with the Australian Government in the context its negotiation of the proposed Australia/India Free Trade Agreement to give effect to the Memorandum of Understanding with the BIC.
74. The Law Council President, Stuart Clark AM, is also working to bring the organisations representing lawyers in other countries with free trade agreements in the region together to negotiate as a group to eliminate a number of behind the barrier restrictions on access to those markets.

Best practice principles for the regulation of foreign lawyers

75. The Law Council has developed a set of market access principles entitled *Best practice principles for the regulation of the practice of foreign law*. The Council's objective is to have the principles adopted by jurisdictions looking to implement a meaningful foreign lawyer regulatory system or improve their existing regulatory system.
76. The principles have been promoted in Korea, Japan, China and India and discussed with major 'like-minded countries', UK, USA, Canada, and NZ with a view to broader use of the Best Practice Principles as a basis to promote the liberalisation of trade in legal services internationally. Implementation of foreign lawyer regulatory frameworks based on these principles will ensure improved professional mobility for lawyers across borders, including enhancing opportunities to act in international arbitrations seated in those jurisdictions.
77. The principles were utilised by the Australian Government's trade negotiators in the development of the text of the services chapter in the recently negotiated Trans-Pacific Partnership Agreement (the TPP).

International engagement

78. The Law Council also represents the Australian legal profession internationally through engagement with peak international organisations. These organisations provide a framework in which the Law Council can pursue its market access and rule of law agenda in conjunction with counterpart associations. Three such organisations are: the International Bar Association (IBA); the Commonwealth Lawyers' Association (CLA) and LAWASIA.

The International Bar Association (IBA)

79. The IBA is the global voice of the legal profession. The IBA is recognised as the world's leading organisation of international legal practitioners, bar associations and law societies. It has a global reach and significant expertise in assisting the

global legal community, and a membership base which spans every continent and comprises of over 50,000 individual lawyers and 200 bar associations and law societies. Law Council has had a long involvement with the IBA and takes a leadership role in its work in the region.

80. In 2008, the Law Council was able to establish the South Pacific Lawyers' Association (SPLA) with seed funding and support from the IBA and New Zealand Law Society. The late Ross Ray QC served as the inaugural Chair of the South Pacific Lawyers' Association. Ross strongly advocated for the rule of law and had the vision to see the importance of strengthening access to justice in the Asia-Pacific region. The SPLA is discussed further below.
81. There are three Australian lawyers currently serving on the IBA Management Board, an unprecedented number. Mr Peter Bartlett and Ms Margery Nicoll, Deputy CEO and Director, International, Law Council, will continue to sit on the Management Board over the next few years. Ms Nicoll's position provides the Law Council with a pivotal opportunity to participate, influence and comment on issues of international importance from within the IBA.
82. The Law Council was successful in its bid to hold the 2017 IBA Annual Conference in Sydney, which will be held from 8 to 13 October 2017. This will provide a unique opportunity for Australian lawyers to participate in an IBA conference in their home country.

LAWASIA

83. LAWASIA was established in 1966 at due to the initiative of several eminent Australian lawyers associated with Law Council. LAWASIA is a forum which seeks to bring together peak bodies of the region and individual members of the legal community from around the world. It promotes cross-jurisdictional exchanges of legal information and education, provides a conduit for encouraging adherence to commonly shared principles of rule of law, promotes high standards in legal practice and the protection of human rights. LAWASIA has exposure to a collective membership of over 1 million lawyers worldwide. It enables the Australia legal profession to develop close links with Asian lawyers and work collaboratively.
84. Four former Law Council Presidents have also served as President of LAWASIA: Sir John Kerr QC; Mr. David Ferguson; Dr. Gordon Hughes; and Mr. Glenn Ferguson AM. Former Law Council executive member, Mr. Justin Dowd, currently serves as a LAWASIA Executive Committee member, while Dr Gordon Hughes currently serves as a Special Advisor to the Executive Committee. The last LAWASIA Conference was held in Sydney in 2015.

Commonwealth Lawyers' Association (CLA)

85. The CLA undertakes a wide range of activities including advocacy, undertaking research projects and organising the biennial Commonwealth Law Conference. It

also provides an opportunity for lawyers from across the Commonwealth to meet and share information and ideas and to provide networking opportunities.

86. The Law Council has been an active member of the CLA. Current CLA President, Alexander Ward was Law Council President in 2011.
87. The CLA is based in London and works with the Commonwealth of Nations, which consists of 53 countries, monitoring Human Rights and Rule of Law issues. The CLA provides training, with a particular focus in 2016 on arbitration, alternative dispute resolution and mediation. The CLA connects Australian lawyers with their neighbours in the South Pacific, Asia, India, Sri Lanka, Bangladesh and Pakistan. They provide support to the African and Caribbean countries and work closely with the Bar and Law Societies in the UK, Canada and New Zealand.
88. Australia has a strong leadership presence in the CLA, holding three Council and two Executive positions.
89. The 20th Commonwealth Law Conference will be held in Melbourne in March 2017. This is the first time since 2003 that a Commonwealth Law Conference will be held in Australia.

Rule of law capacity building work

90. The Law Council plays an important role in encouraging capacity building internationally, and particularly in the neighbouring regions. Assisting the development of bar associations creates flow on effects for democracy, the rule of law, the administration of justice, and economic stability.
91. The Law Council focuses much of this work in the South Pacific Region. As previously mentioned, it helped establish the SPLA with the support of the IBA and New Zealand Law Society. It has also established the Centre for Asia-Pacific Pro Bono (CAPPB) to address capacity-needs analysis in these regions. This was possible due to successful lobbying from the Law Council of Australia for funds from the Attorney-General's Department. The Secretariat for both of these bodies is currently based in the Law Council's Canberra Secretariat.
92. The SPLA supports 16 small bar associations which collectively comprise the South Pacific Lawyers' Association. Recent work includes a number of educational initiatives, including the *Needs Evaluation Survey Report* 2011, the *Women in Law Report* 2012, the ongoing *Model Rules* Project, an annual advocacy scholarship for lawyers from the South Pacific Region to participate in the Australian Bar Association's Essential Trial Advocacy Course, and the South Pacific Lawyers' Conference. SPLA was admitted as Observer Member of the Pacific Islands Law Officers' Network (PILON) at PILON Annual Meeting in Tarawa, Kiribati, in 2014, and continues to assist developing bars in the region through continued correspondence and support.

93. The CAPPB, which has received a disbursement fund in the amount of \$450,000 from the Attorney-General's Department, has helped implement over 20 projects, including skills workshops and advocacy training, across 12 different countries in the South Pacific region. For example, last year, the CAPPB organised a series of Legal Training Seminars across Timor-Leste to assist in the training of lawyers in key core areas.
94. The Law Council is also currently working with the Asia Foundation to help identify suitable expert judges, prosecutors to deliver training to judges and prosecutors in Timor-Leste. Further, funding from CAPPB will be directed to a program in Papua New Guinea which will: identify the capacity to provide CPD; provide three courses on issues such as legal ethics and violence against women; and provide training to local CPD providers. These international initiatives provide opportunities for barristers from Constituent Bodies to engage in the Law Council's international development work.
95. In November 2015, the Law Council also established the International Development Rule of Law Network and invited Constituent Bodies to nominate representatives. The Network's primary aims are to provide a mechanism to share information on current development assistance provided by the Law Council and Constituent Bodies and to build a network of lawyers interested in working on international development activities. The Victorian Bar Association has a nominee on the Network.