

15 January 2024

Our ref: LP:CTP

Dr James Popple
Law Council of Australia
Level 1, MODE3
24 Lonsdale Street
BRADDON ACT 2612

By email: [REDACTED]

Dear Dr Popple

Federal Election—Law Council Call to Parties

Thank you for the opportunity to contribute to the Law Council's Call to Parties document for the upcoming Federal Election.

The Queensland Law Society (QLS) supports the proposed key issues outlined in your memorandum as follows:

- Increased federal legal assistance funding to address critical and widespread unmet legal need and implementation of the outstanding recommendations of the Independent Review of the National Legal Assistance Partnership.
- Support for the legal profession in rural, regional and remote areas, including the development of a Higher Education Loan Program debt reduction and indexation relief scheme for RRR lawyers.
- Increased resourcing of federal courts, tribunals and commissions to ensure that they have the capacity to resolve matters both swiftly and fairly.

Specifically, QLS suggests calling for the appointment of more judicial officers in Queensland with the requisite expertise to hear and determine matters in each jurisdiction. Additionally, we call for increased resourcing for courts and court services in rural, regional and remote areas including:

- adequately resourcing of registries through appropriate staff levels and technology upgrades to provide comprehensive electronic case management systems; and
- adequate numbers of hearing and interview rooms, with audio video capabilities in each, to ensure all parties can appear in court and access legal advice remotely, together with separate waiting areas for matters involving children and domestic and family violence.

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- Greater awareness of existing national arrangements which provide for the comprehensive and stringent regulation of the legal profession. QLS suggests that this should include refraining from the creation of any laws or policies which impact or encroach upon legal professional privilege.
- Promotion and adherence to best practice legislative reform processes, underpinned by transparency, public consultation and reasonable timeframes, to better allow Parliament and the Australian community opportunities to effectively scrutinise proposed reforms, in line with a functioning democracy.
- The establishment of a federal Human Rights Act.
- Federal leadership of a national youth justice response—building on the recommendations by the National Children’s Commissioner in the Help Way Earlier! Report—to ensure that criminal justice policies affecting children across the nation are evidence-based, consistent with Australia’s international human rights obligations and will achieve Closing the Gap youth justice targets designed to reduce the appalling over-incarceration of First Nations children.

QLS considers this also must include advocacy, and the facilitation of reform, resulting in the increase of the minimum age of criminal responsibility to at least 14 years old, across Australian jurisdictions.

- The establishment of a federal Judicial Commission to assist in providing a framework for responding to complaints directed to the judiciary in an independent, structured manner.

QLS supports a Commission that also provides training and education to the judiciary based upon advisory guidelines setting out acceptable standards of judicial conduct. Further, it should provide a pastoral mandate and a role in providing a confidential Employee Assistance Program for judicial officers and court staff.

- The establishment of a federal Parole Authority and a Commonwealth Criminal Cases Review Commission.
- Improving the integrity of migration law reform processes, particularly regarding persons who may be subject to: removal processes; ‘character test’ cancellations or refusals; asylum seeking processes; or immigration detention. This requires increased consultation, greater transparency, reasonable timeframes, and ensuring that system is fair and consistent with human rights and rule of law principles.
- The re-establishment of a standing law reform advisory body to provide advice to government about matters relating to corporations and financial services law, administration and practice.

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QLS would also support the inclusion of items in the document aimed at securing further action on climate change and sustainability, which are grounded in cogent evidence, in accordance with the standing Law Council positions.

Additionally, we **enclose** a document with some specific calls informed by our legal policy committees as well as our general membership, for your consideration.

We would be pleased to continue to engage with the Law Council on the development and promotion of your Call to Parties document.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.

Yours faithfully



Genevieve Dee
President

Area	Political parties and candidates are called on to:	Relevant links
Legal assistance	1. Increase funding for the legal assistance sector to ensure services are able to meet the legal needs of all Australians. 2. Increase the rates paid to suppliers so that they are able to continue service delivery. 3. Provide HELP debt relief for lawyers practising in rural, regional and remote locations. 4. Provide increased access to legal assistance in the following areas: a. services provided to Aboriginal and Torres Strait Islander Peoples; and b. civil law services including family law disputes, LGBTIQ+ legal services, domestic and family violence matters, immigration and citizenship law issues, housing disputes (including renting), consumer disputes, anti-discrimination and vilification matters, elder law issues, guardianship issues, disability issues and employment and workplace relations disputes. 5. Targeted funding to assist with obtaining capacity reports to support individuals subject to significant, and potentially unnecessary, interference with their ability to manage their own affairs.	
Accessing Courts, Commissions & Tribunals	1. Establish a federal judicial commission to: a. examine complaints against judicial officers, including delays in delivering judgments and inappropriate or unreasonable conduct directed towards persons appearing before the officer; b. provide training and education to the judiciary based upon advisory guidelines setting out acceptable standards of judicial conduct; c. provide a pastoral mandate and a role in providing a confidential Employee Assistance Program service for judicial officers. 2. Provide appropriate resources for the Federal Court of Australia, the Federal Circuit and Family Court of Australia, the Administrative Review Tribunal and commissions such as the Fair Work Commission which includes: a. appointing sufficient numbers of judges and members to hear matters expeditiously; b. promptly filling judicial vacancies; c. adequately resourcing registries through appropriate staff levels and technology upgrades to provide comprehensive electronic case management systems; d. providing adequate numbers of hearing and interview rooms, with audio video capabilities in each, to ensure all parties are able to appear in court and access legal advice remotely, together with separate waiting areas for matters involving children and domestic and family violence; and e. properly resourcing courts and court services in rural, regional and remote areas. 3. Amend legislation to allow legal representation as of right in federal commissions and tribunals, in recognition of the benefit this provides to all parties, including assisting matters to proceed expeditiously.	

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	4. Work with relevant stakeholders to reform scales of costs across Commonwealth jurisdictions as well as the National Guide to Counsel Fees, which includes funding reviews and implementation of recommendations.	
Enshrining human rights	1. Introduce a Federal Human Rights Charter 2. Prioritise the implementation of the Disability Royal Commission recommendations	
Supporting Aboriginal and Torres Strait Islander Peoples	1. Implement the recommendations of the Australian Productivity Commission's Review of the National Agreement on Closing the Gap, including promotion of Treaty, Truth and Voice mechanisms as a way of sharing decision making power with Aboriginal and Torres Strait Islander people (which is the goal of Priority Reform One). 2. Consider new targets, including justice targets, under the National Agreement on Closing the Gap, to ensure they are achievable and work towards reducing rates of Indigenous imprisonment.	
Fairly resolve family law disputes	1. Properly fund and resource the Federal Circuit and Family Court of Australia. 2. Appoint judicial officers with specialist family law experience. 3. Properly fund and resource the information sharing framework introduced by the <i>Family Law Amendment (Information Sharing) Act 2023</i>. 4. Properly fund the court-based initiatives that aim to facilitate safe and efficient dispute resolution, such as the Lighthouse Project, the Priority Property Pools under \$500,000 program and the Court-based Family Dispute Resolution Program. 5. Properly fund family law legal assistance services provided by legal aid offices and community legal centres. 6. Properly fund training of family law professionals, including judicial officers, on relevant matters including: 1. domestic and family violence; 2. child development; 3. post-separation family dynamics; 4. diverse family structures; and 5. cultural awareness.	
Addressing violence against women and their children	1. Increased court and legal assistance funding to better respond to demand, including specialist and culturally competent service responses; 2. Long-term and sustained funding for non-government stakeholders to support ongoing implementation of the National Plan to End Violence against Women and Children; 3. Prioritise homelessness prevention for women experiencing violence through access to safe, secure housing, including crisis accommodation and medium and long-term housing, noting the strong links between homelessness and poor justice outcomes; 4. Develop and implement evidence-based behaviour change programs for perpetrators to break the cycle of violence. This must include culturally appropriate programs for perpetrators of varying backgrounds; 5. Ensure sufficient availability of low and no cost behaviour change programs for perpetrators without the means to pay; 6. Address the specific needs of vulnerable communities, particularly Aboriginal and Torres Strait Islander Peoples and older women who are critically over-represented as family violence victims;	

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	7. Adequate and sustained funding for ongoing primary prevention and early intervention initiatives, including holistic family support programs and respectful relationship education campaigns; 8. Address the fragmentation of federal, state and territory family violence systems; 9. Continue to work with the states to progress initiatives that increase awareness and improve responses to coercive control in alignment with the National Principles to Address Coercive Control. Carefully consider the recommendations of the upcoming final report of the Australian Law Reform Commission's inquiry into the justice responses to sexual violence and embrace the opportunity to drive a nationally consistent focus on reforming the justice responses to sexual violence.	
Protecting children	1. Facilitate reform through the Council of Attorneys-General and other forums to increase the minimum age of criminal responsibility to at least 14 years old nationally and ensure that such reforms coincide with bipartisan commitment to requisite funding and provision of wrap around services, including: • family and housing support; • mental health, disability assessments and support; and • youth engagement and rehabilitation. 2. Meaningfully consider and implement the recommendations of the Children's Commissioner's Report which calls for significant reform to Australia's approach to child justice and wellbeing. 3. Commit to the review of criminal justice policies to ensure they do not contribute to the over-incarceration or criminalisation of vulnerable populations, particularly young people. 4. Reaffirm Australia's commitment to the United Nations Convention on the Rights of the Child and ensure that all domestic policies and laws adhere to international standards of child protection and rights. 5. Increase funding and resources for social support systems, including mental health services, education and employment programs for young people as a means of preventing involvement in the criminal justice system. Continue to engage meaningfully with the existing mechanisms for collaboration between federal, state and territory governments, as well as non-governmental organisations, to monitor the impact of criminal justice policies on young people and vulnerable groups.	
Protecting privacy and ensuring the safe & effective use of generative AI	1. Continue to implement overdue privacy reform with a view to reducing inconsistency by facilitating a Commonwealth, state and territory working group, as proposed by the Privacy Act review, to consider harmonisation of key issues in privacy law frameworks. 2. Consider privacy impacts when implementing new policy and legislative initiatives, particularly surveillance and data sharing initiatives, and to provide sufficient safeguards with respect to all dealings with personal information, including its use and retention. This should include preparing and invite public comment on draft privacy impact assessments on proposed technology-enabled initiatives which may have material use impacts on an individual. 3. Work with legal and technical stakeholders to respond to issues involving the use and regulation of Artificial Intelligence. 4. Prioritise reforms following inquiries and reviews to address concerns with 'Automated Decision-Making'.	3. Royal Commission – Robodebt Recommendation 17.1: Reform of legislation and implementation of regulation

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	5. Ensure government digital identity systems are carefully constructed in a way that prioritises reliability, information security, privacy and consumer safeguards, and minimises burdens on business where verification of identity is required including the development of appropriate safe harbour processes and standards. 6. Ensure sufficient and ongoing funding of the Office of the Australian Information Commissioner to: a. support agencies in appropriately responding to data breaches including additional resources to provide guidance to clearly outline the functions and responsibilities of each regulator in the event of a data breach to ensure clarity and avoid regulatory overlap; b. continue to respond to any increased scope and workload because of the ongoing Commonwealth Privacy Act review reforms; and c. support small businesses with education, guidance and resources in respect of proposed changes to the small business exemption under the Commonwealth's Privacy Act. 7. Fund a small business grants program to support law practices, particularly those located in regional, rural and remote areas in navigating technology adoption (including training and technology literacy) and increased regulatory privacy, cyber and technology requirements to enhance capability, compliance and awareness of AI and other digital technologies.	
Supporting vulnerable Australians: targeting elder abuse and providing better disability & related support services	1. Work with the states and territories to develop more nationally consistent laws which contribute to the prevention of elder abuse, including relating to enduring powers of attorney (EPOA) and a model enduring document, recognising that this should occur prior to the proposed EPOA register. 2. Amend relevant laws to enable individuals to receive Medicare benefits for medical reports required for the purpose of determinations relating to capacity and other decisions about their rights. 3. Reform inconsistent federal and state/territory laws and processes relating to restrictive practices, noting that states and territories are best placed to regulate restrictive practices. 4. Continue to implement recommendations of the Disability Royal Commission, with regular updates as to progress. 5. Reform laws relating to superannuation with respect to nominating beneficiaries. 6. Amend carriage laws in the <i>Criminal Code Act 1995</i> (Cth), or in the alternative, issue prosecutorial guidance to provide medical practitioners with certainty as to their criminal liability under Commonwealth legislation.	AHRC report
Modernising business & service delivery	1. Provide continued government oversight of processes for the winding down of Australia's cheques system to ensure appropriate planning and support, and to avoid any unintended consequences. 2. Meaningfully consider and implement recommendations of the Independent Review of Australian Small Business and Family Enterprise Ombudsman. 3. Continued consultation and engagement on rules relating to Australia's anti-money laundering and counter-terrorism financing regime as they relate to the legal sector to ensure there is a balance between safeguarding the community and ensuring those subject to the regime are able to comply whilst also accommodating competing legal and ethical principles and duties. The compliance obligations must be proportionate to the risk and developed with regard to the	1. Cheques Transition plan

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	significant proportion of small businesses subject to the regime, with a view to the potential increased cost to consumers as service provider compliance costs increase. 4. Funding to the ACCC to better support the franchising sector in Australia, including in relation to the Franchise Disclosure Register. 5. Reinstate the Modernising Business Registers program, with appropriate reform to reduce complexities of the previous system. The MBR was proposed to replace up to 30 ASIC-run business information databases with a modern, streamlined system. acknowledge the serious technological obsolescence, cybersecurity and customer experience limitations of the existing systems).	5. Review of MBR Program – Final Report
Consumer rights	1. Increase legal assistance funding and services for members of the community in need of advice on civil law matters. Funding is particularly critical for a. adults with impaired capacity within the guardianship jurisdiction b. older persons who have multiple matters on foot (such as guardianship and tenancy issues) c. workers seeking to retrieve unpaid wages d. communities in regional and remote areas of Queensland e. unrepresented parties in Queensland courts. 2. Targeted legal assistance sector funding to support individuals accessing consumer jurisdictions, including the ability to obtain funded expert reports.	
Engaging the not-for-profit sector	1. Release a consultation paper on the interaction between the <i>Corporations Act 2001</i> (Cth) and the <i>Australian Charities and Not-for-profits Commission Act 2012</i> (Cth) for ACNC-registered companies with a view to clarify the rights of members and the nature and extent of obligations imposed on directors and officers. 2. Funding to modernise and harmonise the Commonwealth Business Registers generally and specifically to address inconsistencies between the ACNC and ASIC register, to minimise issues with reliance on the assumptions contained in sections 128 and 129 of the Corporations Act 2001 (Cth) 3. The office of the Attorney-General being active in the exercise of the role and function of the Attorney to protect charitable assets when material mis-application of charitable assets is in question and to work actively and co-operatively with the Australian Charities and Not-for-profits Commission in the preservation of charitable assets.	
Migration	QLS acknowledges the recent reforms to Australia's immigration policy, including the abolition of temporary protection visas, the removal of the fast track process and the Immigration Assessment Authority, reforms to the Administrative Appeals Tribunal	

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	(now the Administrative Review Tribunal), the more rigorous selection and appointment of appropriately qualified Tribunal members and judicial officers to hear migration matters, and increased legal funding to assist with the processing of protection visa applications at the Department level and on appeal to the Tribunal and courts. However, QLS is concerned with several aspects of Australia's immigration laws. While QLS acknowledges the recent changes to extend the family violence provisions under the <i>Migration Regulations 1994</i> (Cth), QLS is concerned that the family violence provisions – introduced to avoid situations where visa applicants are compelled to remain in violent relationships – remain available to only a relatively narrow cohort of visa holders. The federal government should take immediate steps to improve the migration program so that all temporary visa holders who experience family violence can access the provisions. QLS is concerned with the continuing use of the offshore detention and processing (on Nauru) of asylum seekers arriving directly in Australia by boat. QLS calls on the Federal government to take steps to implement consistent legal processes for determining protection status, which do not discriminate against applicants based on their mode of arrival. QLS also calls for a commitment to long-term, durable solutions for all refugees and asylum seekers who remain subject to Australia's offshore processing and detention policy. QLS calls on the federal government to reform the mandatory character visa cancellation provisions of the <i>Migration Act 1958</i> (Cth) to ensure appropriate procedural fairness; in particular, for persons with a severe mental illness, intellectual disability or cognitive impairment. QLS calls for the repeal of the draconian powers in the <i>Migration Act</i> allowing the Minister to 'overturn' decisions of the Administrative Review Tribunal to revoke a visa cancellation in the 'national interest.' QLS is concerned with the emerging practice in Department decision-making of denying protection visa applications 'on the papers' and without an interview. Protection visa applicants, who are especially vulnerable, should have their claims assessed only after a proper opportunity in an interview to present their claims and to address any concerns that a decision-maker may have with respect to those claims. Lastly, QLS is extremely concerned with the raft of amendments to the <i>Migration Act</i> that allow the federal government to enter arrangements ('third country reception arrangements') for the removal of non-citizens from Australia and their reception and ongoing presence in the foreign country. The new laws authorise the removal of an indeterminate class of persons to third countries without consideration of whether they will be protected from <i>refoulement</i> (return) to their home countries where they have a fear of persecution.	
Regulation of the building & construction sector	1. Facilitate nationally consistent laws dealing with insolvencies in the building and construction sector including in relation to security of payments and trust account requirements. 2. Investigate the need for a nationally consistent approach to registration of engineers	