



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: CLC/FLC/IIC:BMcd160524

16 May 2024

Dr James Popple  
Chief Executive Officer  
Law Council of Australia  
PO Box 5350  
Braddon ACT 2612

By email: [janina.richert@lawcouncil.au](mailto:janina.richert@lawcouncil.au)

Dear Dr Popple,

### **Australian Law Reform Commission Inquiry into Justice Responses to Sexual Violence**

Thank you for inviting the Law Society of NSW to provide input for a possible Law Council submission to the Australian Law Reform Commission (**ALRC**) in respect of the Issues Paper on the Inquiry into Justice Responses to Sexual Violence in Australia (**Inquiry**).

Sexual violence is a concerning problem in Australia, and one that warrants meaningful, multi-faceted and ongoing action across sectors to reduce the incidence of, and ultimately prevent, sexual violence across the country. We recognise that such an undertaking requires engagement, understanding, and meaningful action in respect of many intersecting social issues that affect both the incidence and reporting of sexual violence. These factors include the nature of domestic violence, men's violence, housing insecurity, child protection, poverty, geographic and other forms of isolation, and access to services, including physical and mental healthcare.

We recognise that one important step in responding to and preventing sexual violence is to ensure that justice responses to sexual violence are trauma-informed, culturally safe, accessible, and fundamentally, operate to support the agency and empowerment of victim-survivors seeking redress. To this end, the Law Society welcomes the ALRC's Inquiry and is grateful for the opportunity to contribute to the Inquiry.

Noting the preliminary nature of this consultation, we have limited our submission to identifying our highest priority issues relevant to the Terms of Reference for the Inquiry for consideration. In light of the requirements of the National Agreement on Closing the Gap, we also suggest that the ALRC be urged to work closely with Aboriginal community-controlled organisations on all stages of this inquiry, from approach to making recommendations.

### **Supporting early intervention**

We consider the development of, and investment in, early intervention to be critical in supporting justice agencies to better respond to sexual violence. We would support consideration by the ALRC of the effect of early intervention on justice responses to sexual violence as a key priority.

Early intervention strategies and services aim to prevent harm, including sexual violence, and include a range of initiatives, such as:

- Education on consent and respectful relationships.
- Initiatives centering, supporting and strengthening connection to culture and family.
- Services focused on supporting families to stay together and engage in safe behaviour.
- Youth and child-focused therapeutic and community programs.
- Accessible healthcare, including mental healthcare.
- Women's Community Shelters and safe crisis accommodation.
- The availability of legal assistance services to provide legal advice, including advice in respect of housing issues, child protection, domestic violence, the sexual assault communications privilege, workplace sexual harassment, and family law.

We are of the view that investing in early intervention is an effective way to promote accountability and respectful behaviours, support and protect people at risk of sexual violence, and to address some of the issues that currently affect the capacity for the criminal law system to respond effectively to sexual violence, including issues of resource scarcity and excessive delay in proceedings.

In conducting the Inquiry, the ALRC may wish to consider the connection between early intervention and justice response to sexual violence, and the utility of bolstering early intervention services and strategies as a method to increase the scope for justice agencies to better respond to sexual violence.

This may also include consideration of the utility and effectiveness of Men's Behaviour Change Programs (**MBCPs**), building on the findings of the Victorian Royal Commission into Family Violence in respect of MBCPs, including Recommendation 87 regarding research, trial, and evaluation of certain interventions for perpetrators.<sup>1</sup> The ALRC may wish to draw from, and build upon, existing evaluations of MBCPs, such as the evaluation of four community-based MBCP pilots prepared by the University of New South Wales for Women NSW,<sup>2</sup> to consider factors that may increase the effectiveness of MBCPs and potential means to ensure ongoing evaluation of existing MBCPs.

### **Developing legal services for victim-survivors of sexual assault**

The Law Society supports, and has previously advocated for, accessible and integrated legal services for victim-survivors of family, domestic and sexual violence as a method of improving the justice response to sexual violence. We recently provided input in respect of the Attorney-General's consideration of developing comprehensive legal services for victim-survivors in a previous submission to the Law Council (**enclosed** for consideration) and support further consideration of ways to ensure victim-survivors are well-informed and supported throughout all stages of legal proceedings.

### **Supporting diverse options for redress**

To ensure that victim-survivors have sufficient choice and agency in responding to their experience of sexual violence, a range of different options for redress should, in our view, be available and accessible, in addition to the traditional criminal law pathway.

We recognise that the inherent nature of, and essential functions involved in, criminal prosecutions can be a harmful experience for many victim-survivors. For example, the process of cross-examination can be significantly stressful and potentially re-traumatising for some

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<sup>1</sup> State of Victoria, Royal Commission into Family Violence, March 2016.

<sup>2</sup> UNSW, 'Evaluation of four community-based men's behaviour change program pilots: Final Report', September 2019. Department of Communities and Justice NSW Summary Report is [available here](#).

victim-survivors, even when conducted with best practice supports and protections, as provided for under Part 5 of the *Criminal Procedure Act 1986* (NSW). We recognise that pathways alternative to the criminal law process may be more desirable to many victim-survivors seeking redress. We would support consideration by the ALRC of appropriate alternative options for redress to ensure that a range of pathways are available to victim-survivors, in recognition and support of their diverse nature, needs and desired outcomes.

The availability of alternative options for redress would also enable greater choice as to an appropriate pathway in view of the facts and circumstances of the sexual violence. In our view, variety in options for redress would support improved, tailored responses to various forms and circumstances of sexual violence, including in some circumstances where the defendant is not fit to be tried and/or was unable to form the requisite *mens rea*. We recognise that the criminal law system may not provide adequate support and validation for victim-survivors of this type of sexual violence, particularly prevalent in aged care and psychiatric facilities, and consider that an alternative pathway may be preferable in some cases.

Alternative approaches the ALRC may wish to consider could include restorative justice pathways, increased access to civil justice and improving other methods of recognition, including recognition payments.

We note that there have been suggestions of a lowering of the standard of proof to the balance of probabilities, as a means to address some of the complexities and difficulties of sexual assault prosecutions. While we encourage the ALRC to think broadly in relation to addressing this policy problem, we note that it is our strong view that any process involving a standard of proof below beyond reasonable doubt would have to sit entirely outside the criminal justice system as we know it, and be subject to entirely separate remedies, as opposed to traditional criminal punishment.

## **Improving the criminal justice system response**

### Trauma-informed training and approaches

Essential to improving the justice response to sexual violence, in our view, is the ongoing and consistent delivery of trauma-informed, culturally appropriate training for all personnel who are involved in sexual violence matters, from investigating police officers and legal practitioners through to judicial officers.

In conducting the Inquiry, the ALRC may wish to consider ways to ensure that meaningful, relevant and consistent training can be developed and utilised on an ongoing basis in all jurisdictions. In our view, it would be of benefit for training to be developed and/or co-delivered in consultation with organisations with specialist experience, including frontline experience of working with victim-survivors. A clear plan for the evaluation of any relevant training would also assist to ensure that training remains relevant, useful and effective, and can be updated as needed.

### Delay

Delay in hearing and finalising criminal matters can have a damaging and corrosive impact on victim-survivors of sexual violence, unduly prolonging anguish and distress. Indeed, significant delay may also deter other victim-survivors from reporting their experience of sexual violence. We are of the view that taking meaningful action to reduce delay in criminal matters, including addressing backlogs in NSW criminal courts, is essential to improving justice responses to sexual violence.

NSW criminal courts are grappling with a substantial backlog of criminal matters pending finalisation, a factor which contributes to significant delays as victim-survivors wait for defendants to be tried. As of June 2023, the median time for a defended case to be finalised in the District Court was just over two years (783 days) from the date of arrest,<sup>3</sup> increased from 729.5 days in 2018/2019. Of the matters heard by the District Court, we note that sexual assault matters tend to take longer to resolve.<sup>4</sup> Importantly, we note that these statistics do not reflect the totality of delay experienced by a victim-survivor, as the event of sexual violence predates arrest, with many cases involving complaints of historical conduct.

In contemplating improved justice responses to sexual violence, we consider it essential that delay in the criminal justice system be addressed as a priority, and support consideration of this issue by the ALRC as part of the Inquiry. To address the backlog and ensure that justice is delivered in a timely manner consistent with public expectations, it is likely that additional resourcing will be required.

### Resourcing

We would support consideration by the ALRC of the impact of resourcing on the capacity for justice agencies to respond effectively to sexual violence as a priority matter.

In our view, the current level of core funding for legal assistance and justice services, including Aboriginal and Torres Strait Islander Legal Services, NSW courts, Legal Aid NSW and the NSW Office of the Director of Public Prosecutions (including funding for Aboriginal and Torres Strait Islander Witness Assistance Officers) is not sufficient to substantially reduce delay in criminal matters, or indeed, to provide a well-supported and empowering experience of the criminal justice system for victim-survivors of sexual violence. We have raised concerns about resourcing of these agencies in previous submissions, including a recent submission to the Law Council in respect of the Independent Review of the National Legal Assistance Partnership (**enclosed**).

In addition, our members report a particular prevalence of resourcing-related issues in regional, rural and remote areas of NSW that meaningfully inhibit victim-survivors of sexual violence from accessing justice. For example, Wurringa Baiya, an Indigenous led women's legal service in Sydney that provides legal advice, court support and community legal education to women, including victim-survivors of sexual violence, does not receive sufficient funding to service areas outside the Sydney metropolitan area, inhibiting the ability for women experiencing, or at risk of experiencing, domestic, family and sexual violence to seek and access help.

We consider it appropriate for the ALRC to examine the impact of resourcing on the capacity for justice agencies to respond effectively to sexual violence as part of the Inquiry, with a particular focus on resourcing in regional, rural and remote areas as a priority area of concern.

### Specialist approaches

The Law Society has supported the implementation of specialist Courts and Court procedures that are designed to better meet the needs of participants, including the establishment of the Youth Koori Court, Children's Court, Drug Court, Child Sexual Offence Evidence Program and Walama List in the District Court.

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<sup>3</sup> BOCSAR [Criminal Court Statistics, July 2018 – June 2023](#).

<sup>4</sup> BOCSAR 'The effect of appointing additional judges on District Court finalisations', *Crime and Justice Bulletin* 241, 2021.

We recognise the value, in appropriate circumstances, of specialist courts, procedures and personnel employing therapeutic, culturally appropriate and trauma-informed approaches in handling particular matter types and would support consideration by the ALRC of developing specialist approaches to matters involving sexual violence. At the same time, we recognise that the process of developing an effective specialist approach is a complex exercise, and, in certain areas, can create significant risks of 'burnout' and trauma for staff consistently working in such courts. We would be happy to provide further feedback and assistance if this option is to be further explored.

Thank you for the opportunity to provide preliminary comments in respect of the ALRC's Inquiry. We look forward to the opportunity to provide further feedback in respect of the Inquiry once a substantive proposal paper is issued later this year.

If you have any questions in relation to this letter, please contact Claudia Daly, Policy Lawyer on (02) 9926 0233 or by email: [claudia.daly@lawsociety.com.au](mailto:claudia.daly@lawsociety.com.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Brett McGrath', with a long horizontal flourish extending to the right.

**Brett McGrath**  
**President**

Encl.



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: CLC:CBcd260423

26 April 2023

Dr James Popple  
Chief Executive Officer  
Law Council of Australia  
DX 5719 Canberra

By email: [john.farrell@lawcouncil.asn.au](mailto:john.farrell@lawcouncil.asn.au)

Dear Dr Popple,

### **Developing legal services for victims and survivors of sexual assault**

Thank you for the opportunity to provide input for the Law Council's submission to the Attorney-General's Department in response to its Discussion Paper, 'Scoping the development of specialised and trauma-informed legal services for victims and survivors of sexual assault'. The Law Society's Criminal Law Committee contributed to this submission.

The Law Society supports the National Plan to End Violence against Women and Children, including implementing appropriate measures to improve criminal justice responses to sexual assault and to promote fair justice outcomes in these matters. To this end, we welcome consideration by the Commonwealth Government of ways to provide victims and survivors of sexual assault with full and supported access to the justice system, including by developing specialist and trauma informed legal services for victims and survivors of sexual assault.

The Law Society supports, and has previously advocated for, accessible, integrated legal services for victims of family, domestic and sexual violence, as in the **attached** submission to the Law Council. We agree, as suggested in the Discussion Paper, that services for complainants and victims must be trauma informed, victim and survivor-centric, culturally appropriate, integrated with existing services and, ideally, community-led.

In addition, we suggest that in developing a comprehensive legal service for victims and survivors of sexual assault, the Government may wish to consider:

- Equipping the service to provide legal advice in the relevant state or territory jurisdiction, and in various situations that can interplay with sexual assault matters, including the sexual assault communications privilege, apprehended domestic violence orders, family law proceedings and victims compensation claims.
- Ways to ensure that all services are available and accessible to a diversity of complainants, victims and survivors of sexual assault, including those who are also offenders and/or experiencing incarceration.
- Ensuring that appropriate support services are available to victims and survivors at all stages after a sexual assault has occurred. This could include the availability of timely and

THE LAW SOCIETY OF NEW SOUTH WALES

170 Phillip Street, Sydney NSW 2000, DX 362 Sydney  
ACN 000 000 699 ABN 98 696 304 966

[lawsociety.com.au](http://lawsociety.com.au)

T +61 2 9926 0333 F +61 2 9231 5809  
E [lawsociety@lawsociety.com.au](mailto:lawsociety@lawsociety.com.au)



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accessible non-legal support soon after the occurrence of sexual assault, and any beneficial assistance after the conclusion of proceedings related to a sexual assault complaint, including administrative assistance in obtaining victims compensation and engaging with longer-term support services as appropriate.

- Ensuring that the structure of the legal service does not place a complainant in the position of having to, unnecessarily, repeat their account of sexual assault, including by promoting continuity of personnel insofar as possible and appropriate, and establishing effective record keeping and information sharing mechanisms.
- Maintaining the legal service's independence from the Police Force and prosecution services.
- Providing victims and survivors with non-legal, social and emotional support throughout the criminal justice process, including by involving social workers as appropriate, and/or providing access to counsellors and psychological services.

We understand that developing specialist and trauma informed legal services for victims and survivors of sexual assault will be a substantial undertaking and will involve significant and substantive consultation with relevant stakeholders, including to avoid any unnecessary duplication of existing services. We look forward to further information about the proposed legal service and welcome further opportunities to contribute as this work progresses.

If you have any questions in relation to this letter, please contact Claudia Daly, Policy Lawyer on (02) 9926 0233 or by email: [claudia.daly@lawsociety.com.au](mailto:claudia.daly@lawsociety.com.au).

Yours sincerely,



Cassandra Banks  
**President**

*Encl.*



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: CLC/IIC/HRC:CBvk131023

13 October 2023

Dr James Popple  
Chief Executive Officer  
Law Council of Australia  
PO Box 5350  
Braddon ACT 2612

By email: [john.farrell@lawcouncil.au](mailto:john.farrell@lawcouncil.au)

Dear Dr Popple,

### **Independent Review of the National Legal Assistance Partnership**

Thank you for the opportunity to contribute to the Law Council's submission to the Independent Review of the National Legal Assistance Partnership (**NLAP review**). The Criminal Law, Indigenous Issues and Human Rights Committees of the Law Society contributed to this submission.

#### **Value of legal assistance**

In the context of highlighting the value of legal assistance, we would like to draw attention to the work being undertaken by the Kaldor Centre Data Lab, which publishes and analyses data around Australia's refugee status determination decisions. The Centre has kindly agreed to share its draft submission with the Law Council (attached), which provides insight into the benefits of legal representation in this field of law.

We note also the 2023 report, *The benefits of providing access to justice*, prepared by PWC and commissioned by National Legal Aid, finding that for every \$1 invested in legal aid services by the Commonwealth Government, an equivalent benefit of \$2.25 was delivered.

We continue to support the findings of the Productivity Commission's 2014 Public Inquiry Report on *Access to Justice Arrangements*.

#### **“Missing middle”**

We note that many of the issues raised in the NLAP Review Issues Paper are relevant to the Law Council's previous work in respect of the Missing Middle Project. We attach our 2021 submission and reiterate those concerns.

#### **Effects of under-resourcing the NSW criminal justice system**

Our members are of the view that the current level of core funding for the Aboriginal Legal Service (NSW/ACT) (**ALS**) and Legal Aid NSW (as well as the Office of the Department of Public Prosecutions (**ODPP**), though that is of less relevance to this review) is not sufficient to



support the delivery of justice in an appropriate or sustainable manner. We are concerned that insufficient resourcing of these organisations is regularly contributing to significant issues in the criminal justice system, including:

- Providing an inadequate experience of the criminal justice system for victim-survivors;
- Increased risk of errors and miscarriages of justice;
- Causing both regular and major procedural delays; and
- Increasing the risk of unsafe work environments for practitioners.

We suggest that increased investment is critical, particularly when considering the increasing complexity of criminal cases in NSW, large caseloads, and the ramifications of continuing the status-quo. We note that we will separately make submissions on this issue to the NSW Attorney General, but raise the issue here, as the need to increase the quantum of funding for the ALS and Legal Aid NSW is relevant to this review.

### Increasing complexity of criminal cases

In recent years, criminal matters in NSW have become more complex. This is due to a variety of reasons, including:

- The increased use of new investigation technology by police, which enables the swifter collection of higher volumes of electronic evidence. Surveillance footage and recordings, as well as Cellebrite downloads of smartphones, for example, have become commonplace in a wide variety of matter types and can substantially increase the volume of evidence served in briefs.
- The increased use of technology by offenders. This is particularly prevalent in, but not limited to, fraud matters. Indeed, the NSW Sentencing Council recently acknowledged that ‘technology, particularly through the Internet, has created more opportunities for fraud offences of increasing complexity.’<sup>1</sup>

Indeed, complexity has been linked to increases in the average trial duration for sexual assault matters prosecuted in Sydney, ‘from 11.79 days in 2016 to 14.42 days in 2022’.<sup>2</sup>

### High caseloads

In the last five years there has been, on average, a 1.5% increase in the number of adults proceeded against by the Police Force in NSW. In the 12 months up to June 2023 for example, 158,572 adults were proceeded against, as compared with 149,608 adults in the 12 months up to June 2019, after a period of lower numbers during the years affected by the COVID-19 pandemic.<sup>3</sup>

### Staffing

We are concerned that staffing levels are not sufficient to facilitate working environments that appropriately support the safety and wellbeing of practitioners who engage with traumatic material on a regular, if not daily basis, or to ensure that practitioners are able and equipped to provide a satisfactory level of service delivery.

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<sup>1</sup> NSW Sentencing Council, *Fraud* (Report, June 2023), ix.

<sup>2</sup> M Whitbourn, ‘[Sharp increase in sexual assault cases awaiting trial in NSW](#)’, *Sydney Morning Herald* (online, 2 February 2023).

<sup>3</sup> NSW Bureau of Crime Statistics and Research, *NSW Recorded Crime Statistics Quarterly Update* (June Quarter 2023) 17.

We note that in the 2022 People Matters Employee Survey, 20% of responding Legal Aid staff reported that they do not have time to do their job well and 34% reported feeling burnt out. We note that, concerning, these responses are markedly worse than responses from employees in similar industry roles, including the NSW Law Enforcement Conduct Commission, where only 10% reported issues with time and 16% reported feeling burnt out.

### Adverse consequences

Our members report significant and wide-ranging consequences of resourcing constraints that currently arise on a regular basis, in addition to affected wellbeing.

By way of example, where the ALS and Legal Aid have insufficient resources, consequences can include:

- Affected capacity to provide sound legal advice and representation. The inability to provide a competitive wage for practitioners affects organisations' ability to recruit and retain practitioners, which has a significant impact on the ability to provide practitioners with an appropriate level of expertise in all NSW locations.
- Significant decisions, including sentence and bail decisions, being made without key information, due to an inability for defence representatives to access expert reports that have the required degree of quality and detail. This can materially affect the ability for Courts to make appropriate orders in respect of defendants, including to ensure the protection of victims and the community.
- Significantly increased costs to the Courts, ODPP and NSW Police Force, due to higher rates of unrepresented defendants, including in Apprehended Violence Order proceedings.
- Increased risk of reoffending and harm to the community, as defence practitioners have insufficient time to consider all options that may be effective in addressing an individual's criminogenic factors and triggers to reoffending, and to explore the availability of appropriate support.

For these reasons, it is our view that increasing core funding for the ALS and Legal Aid NSW has the potential to generate significant savings in other parts of the criminal justice system, as well as, more importantly, delivering more just outcomes for the community.

While we note this is a matter for the NSW Government, rather than specifically the NLAP review, funding for the ODPP and for NSW Courts should also increase to ensure better outcomes. These agencies work interdependently to achieve just outcomes for NSW, and their appropriate resourcing is essential to maintaining a criminal justice system that is functional and trusted by the community.

### **Funding Aboriginal and Torres Strait Islander Legal Services**

In the context of appropriately funding Aboriginal and Torres Strait Islander Legal Services (**ATSILSs**), in our view, the approach to NLAP funding arrangements should be consistent with what is required under the National Agreement to Close the Gap (**National Agreement**).

Key principles in respect of moving beyond a "consultation" approach and towards shared decision-making and genuine partnership are set out in the National Agreement, and are directly relevant to how governments approach legal assistance funding for ATSILSs. In particular, the transformation required by the priority reform areas are relevant to the national approach to funding the legal assistance partnership. We reiterate our support for the Productivity Commission's draft report on the National Agreement, and note again that it reflects the experience of our members, who emphasise the need for genuine partnership with Aboriginal people, from design to delivery.

By way of general example, our members expressed concern that the recent approach taken to justice reinvestment funding at the Commonwealth level will proceed on a time-limited grant basis. We acknowledge and commend the Government on the approach taken in respect of community readiness support and the establishment of the National Justice Reinvestment Unit, as recommended by the Australian Law Reform Commission in its *Pathways to Justice Report*. However, grant processes are onerous and resource-intensive, and the time-limited nature of grant funding is a significant barrier to long term planning and sustainable programming. We suggest that this approach to funding is itself a barrier to the creation of a robust and thriving Aboriginal controlled community sector. The grant-based funding approach may ultimately undermine the success of, in this case, the other features of the justice reinvestment model, which is based on supporting local strengths (and which may not extend to familiarity with the grants application process). We suggest that the transformation required by the National Agreement requires ambition and imagination from governments, and a willingness to re-examine all aspects of its approach to the matters that affect Indigenous peoples. This extends to the models applied to the design and delivery of legal assistance services.

On matters affecting Aboriginal and Torres Strait Islander people, the Law Society's position is to seek to support and amplify the views of Indigenous people. We understand that the view of the ALS is that a critical issue in the effective provision of legal services to Aboriginal and Torres Strait Islander people continues to be the issue of salary parity within the legal assistance sector, and particularly in relation to Legal Aid commissions. Without this foundational lever in place, ATSILS are unable to properly recruit and retain staff, including in relation to backfilling roles. We note that in NSW in May 2023, the ALS was forced to freeze services to 13 Local Courts, the effect of which is that the ALS was unable to act for Aboriginal and Torres Strait Islander people facing new criminal charges in those Local Courts from 15 May 2023.<sup>4</sup> This policy setting is resulting in poor outcomes across the legal assistance sector, adding extra burden to other legal assistance providers and, from the perspective of managing conflicts, undermining the existence of a viable market for legal assistance.

We understand that, for the ALS, the persistent and inadequate levels of funding at state and Commonwealth level denies the ability of the ALS to thrive, and to embed the culturally safe and appropriate model of care it considers necessary to establish in order to truly be in a position to address the social and civil determinants of incarceration. Ideally, ALS offices across NSW should be staffed with Aboriginal field workers, and staff members who can assist with disability, care, family and other civil matters (including fines, housing and education-related legal issues). In many cases, dealing with one legal problem will be little more than a temporary solution to what are likely complex and inter-related circumstances of disadvantage.

In addition to adequate legal staffing, the ALS should be resourced such that its legal services are provided as part of a network of therapeutic services, including mental health, drug and alcohol rehabilitation, and the supports needed as part of, for example, prisoner throughcare, including employment support services. We note that while it is pleasing that in NSW that a number of Indigenous-specific court and tribunal lists have been established to improve the access and quality of justice for Indigenous people, neither the ALS, nor other Aboriginal community-controlled services, have received commensurate resourcing to provide additional services to support these initiatives. We reiterate the concern set out in our submission to the Law Council on the review of the National Agreement that this lack of adequate resourcing may, in effect, set these initiatives up to fail and reduce political appetite in the future to engage again with similar approaches.

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<sup>4</sup> Aboriginal Legal Service (NSW/ACT), *Funding crisis to force service freezes within weeks*, 28 April 2023, online: <https://www.alsnswact.org.au/lc-service-freezes>.

Further, ATSILSs, as should all providers in the legal assistance sector, should be adequately funded to support an advocacy function. In our view, efficiencies are gained by ensuring a mechanism for systemic and policy issues that arise in practice to be identified, articulated and effectively communicated back to governments. This would ultimately exert downward pressure on funding requirements in the future. However, we understand that currently, nearly all of the funding received from the Commonwealth supports the ALS' criminal law practice, and the levels of funding received from the NSW Government are low.

### **NLAP vs ILAP**

In respect of the funding model that should apply, we understand that while some benefits have accrued to ATSILSs under the NLAP model, including greater visibility over funding for the entire legal assistance sector and improved engagement with governments, the gaps identified in the Review of the Indigenous Legal Assistance Program<sup>5</sup> have not, as a whole, been addressed by the NLAP model, including gaps that affect the ability of ATSILSs to deliver more holistic (legal and therapeutic) services, as well as legal services that address the range of legal need.

In our view, urgent consideration is required for a funding model that clearly sets out the obligations of the Commonwealth and states, and which sufficiently and sustainably allows ATSILSs, together with other Aboriginal community-controlled organisations, to provide legal and therapeutic services that address the social, civil and legal determinants of persistently poor outcomes in the care and criminal justice jurisdictions.

Thank you for the opportunity to provide comment. Questions at first instance may be directed to Vicky Kuek, Head of Social Justice and Public Law Reform, on [victoria.kuek@lawsociety.com.au](mailto:victoria.kuek@lawsociety.com.au) or 02 9926 0354.

Yours sincerely,



Cassandra Banks  
**President**

Encl.

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<sup>5</sup> Cox Inall Ridgeway prepared for the Attorney-General's Department, *Review of the Indigenous Legal Assistance Program 2015-2020 Final Report*, February 2019, online: <https://apo.org.au/sites/default/files/resource-files/2019-02/apo-nid253741.PDF>.