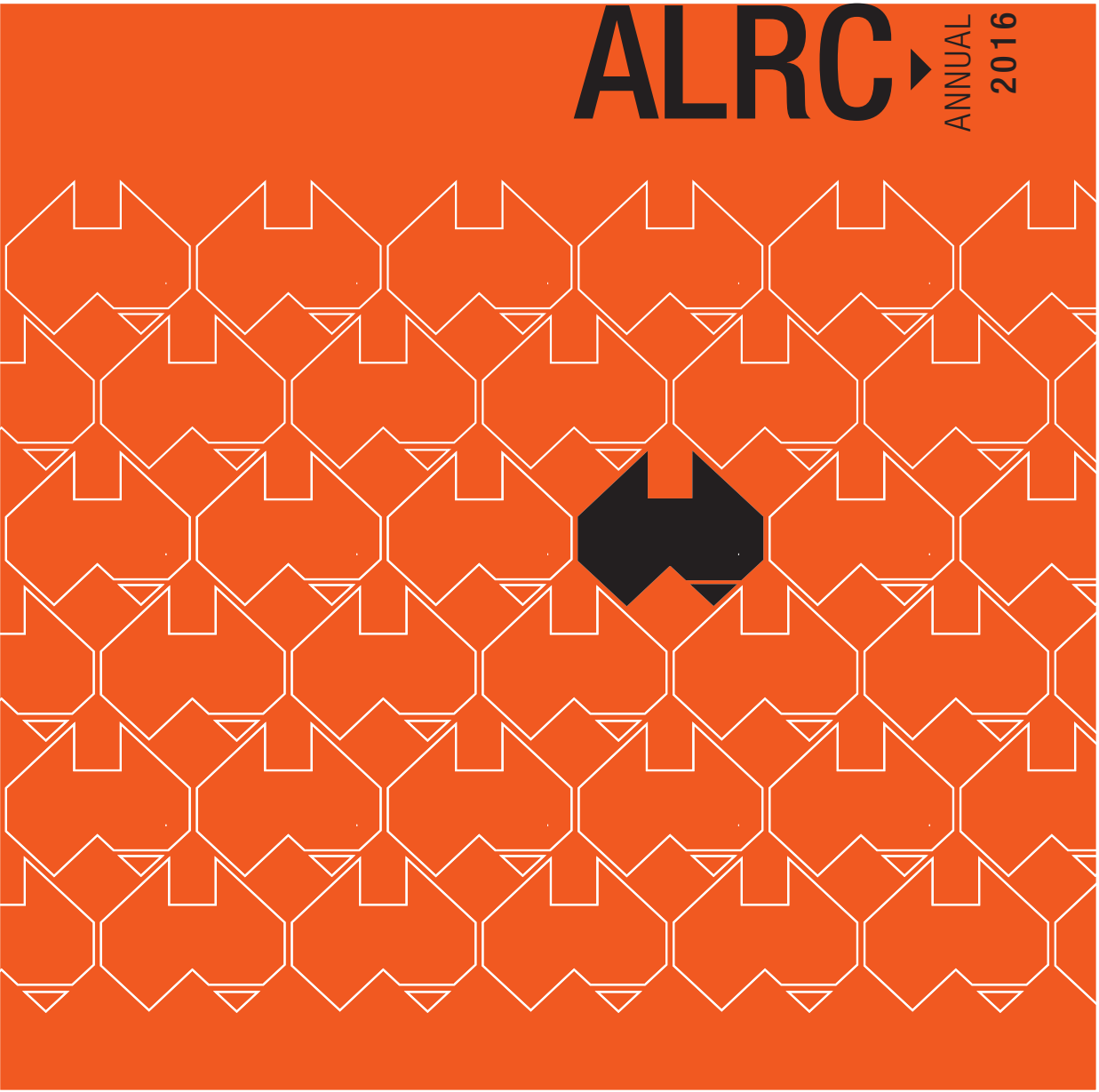




Australian Government  
Australian Law Reform Commission

**ANNUAL  
REPORT  
2016 2017**

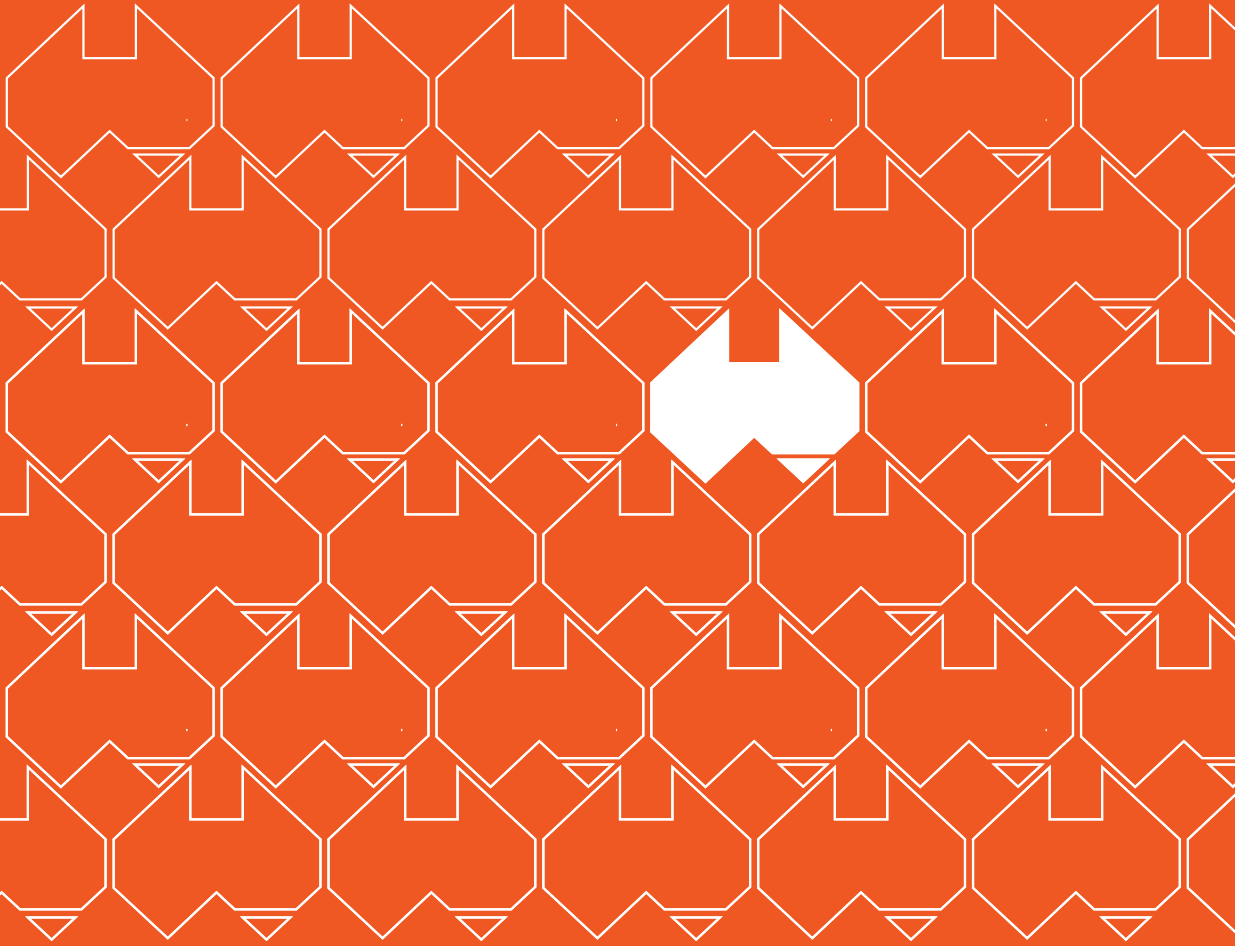
**ALRC** ▶





# ALRC

ANNUAL  
REPORT  
2016 2017



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**Australian Government**  
**Australian Law Reform Commission**

Robert Cornall AO  
Acting President

Senator the Hon George Brandis QC  
Attorney-General  
Parliament House  
Canberra ACT 2600

15 September 2017

Dear Attorney-General

On behalf of the members of the Australian Law Reform Commission, I am pleased to present the Commission's Annual Report for the period 1 July 2016 to 30 June 2017.

This Report has been prepared in accordance with Division 6, s 46 of the *Public Governance, Performance and Accountability Act 2013* (Cth).

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. J. A. L. W. M.' with a long horizontal flourish.

Robert Cornall AO

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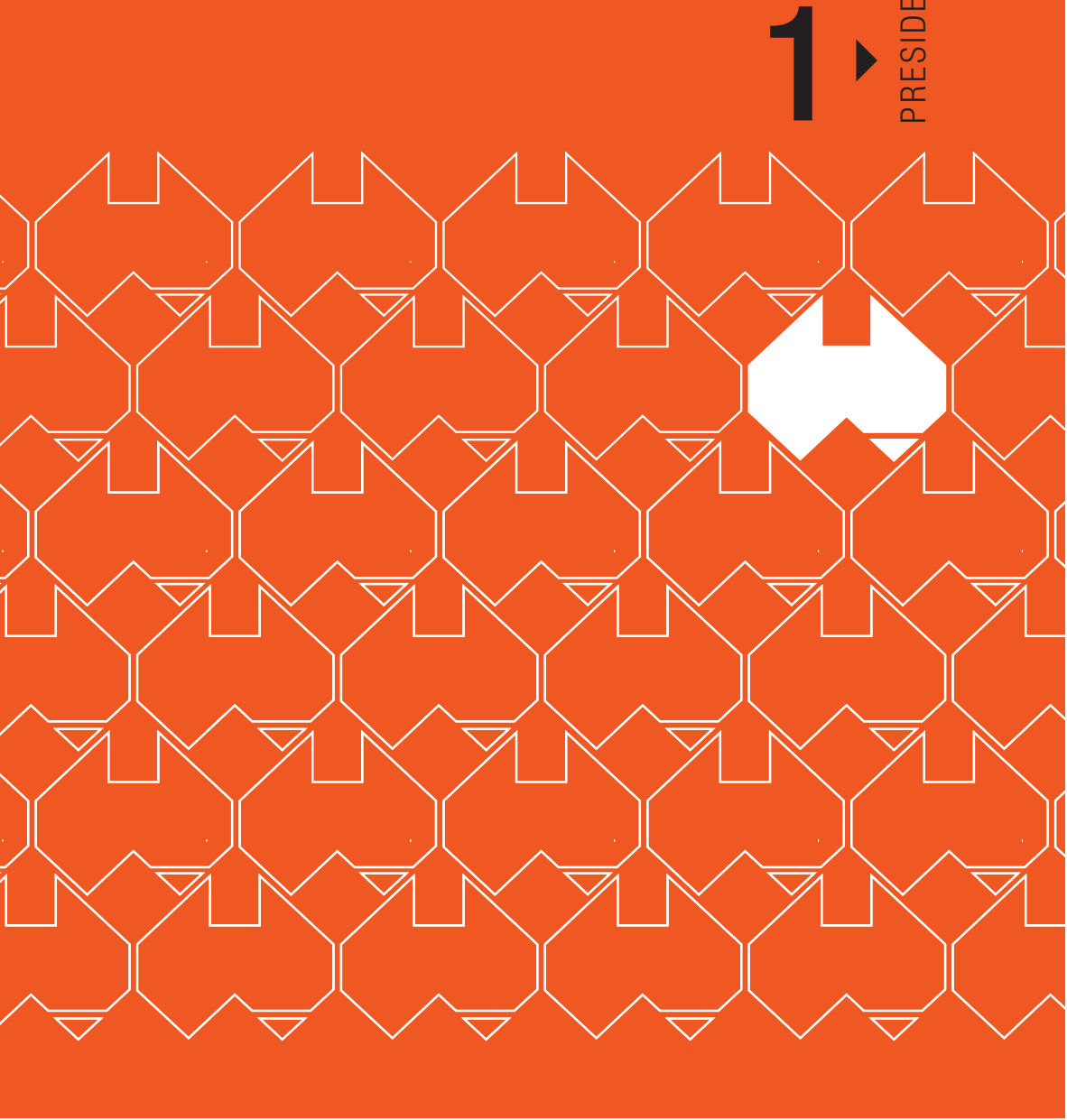
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# 1

PRESIDENT'S OVERVIEW

ALRC President, Emeritus Professor Rosalind Croucher AM



# ► PRESIDENT'S OVERVIEW

It is with mixed emotions that I present my final President's Overview for the 2016–17 Annual Report, as I leave the ALRC to take up my new Commission as President of the Australian Human Rights Commission on 31 July 2017.

I say 'mixed emotions' because, although I consider it a great privilege to be joining the Australian Human Rights Commission, I am enormously proud of the work that has been undertaken by the ALRC during my presidency and I have greatly appreciated the challenges and the opportunities that leading the pre-eminent law reform body in Australia has afforded me over the past seven and a half years. I can honestly say that I have enjoyed coming to work every single day! During this time I have led seven inquiries as President and another two as Commissioner in charge. As I have reported on each of these inquiries in ALRC Annual Reports over this time, in this final overview I wanted instead to offer my reflections on some of the other achievements of the ALRC over the decade I have spent at the Commission.

At a time when much is made of the need for women to be encouraged to provide leadership in all aspects of public life, the past ten years has seen a significant number of women holding leadership positions at the ALRC. I consider it a great privilege to have served with three fellow female Commissioners at the one time, including: Professor Jill McKeough, who led the Copyright Inquiry, Professor Lee Godden, the Review into the *Native Title Act 1993* and Professor Barbara MacDonald, the Review into Serious Invasions of Privacy in the Digital Era. In this group I should also add the ALRC's remarkable Executive Director, Sabina Wynn. Having five women in leadership roles

in any organisation would be quite rare, but in one as small as the ALRC, to have all the leadership roles filled by women is a significant achievement. In addition, there were also the outstanding women who were appointed as part-time Commissioners for specific inquiries: Victorian Magistrate Anne Goldsbrough, on the 2010 Family Violence Inquiry, and the Hon Susan Ryan AO, who worked with me on the 2012 Age Barriers to Work Inquiry. The Honourable Justices Susan Kiefel, Susan Kenny and Berna Collier were also appointed as standing part-time Commissioners over this period. It was a great privilege to work with these extraordinary and talented women. They stood by my side during my presidency and encouraged and greatly supported the work of the ALRC.

I have also had the privilege to work with other fine Commissioners who have also provided their wise counsel and encouragement. For specific inquiries: Graeme Innes AM, as a part-time Commissioner on the Equality, Capacity and Disability Inquiry, when he was Australia's Disability Discrimination Commissioner and, most recently, Judge Matthew Myers AM, Australia's first Indigenous judge of the Federal Circuit Court, leading the Inquiry into Incarceration Rates of Aboriginal and Torres Strait Islander Peoples; and as standing Commissioners, the Hon Justices John Middleton and Nye Perram. I hope that, in the future, this diversity of leadership will continue and that law reform will have the benefit of a range of ideas and experiences reflecting the many voices in the community.

I have previously commented that the ALRC is singularly positioned to undertake highly complex and contested reviews involving legal issues where there is a need to be—and to be seen to be—completely independent from government, industry and special interests. Reflecting on the subject matter of the most recent inquiries, elder abuse and incarceration rates of Aboriginal and Torres Strait Islander peoples, I am aware of how the ALRC must traverse many different and complex areas of great concern to the community and the government, with sensitivity, intelligence and, above all, balance. The ALRC's work demonstrates the value of a generalist body that is able to engage with a range of different issues, on which we hold no position nor pre-conceived ideas. The ALRC starts with questions, not answers, and involves inquiry stakeholders across the broadest spectrum of interests as part of our extensive consultation practice. In reflecting on the incredible range of topics the ALRC has covered in the course of its history, but also during my presidency, the gravitational pull towards change is also evident. Laws must be both resilient and able to respond to the needs of the community, but must also look to the future and be responsive to changing values, expectations and situations that are always pushing the legal envelope. It is in this difficult nexus between stability and flexibility that the ALRC's reform work so often resides.

Finally, I am also extremely proud of the resilience of the ALRC itself—a 42-year old organisation—that has had to adapt

to the changing priorities of governments and needs of the community. The past few years has seen increasing fiscal restraint required of many government agencies, and I have endeavoured to meet the challenge of diminishing resources while not compromising the quality of the ALRC's work. One way that we have adapted to this environment is by ensuring our reports are focused documents that are accessible and present the evidence and recommendations clearly and concisely. Providing all our documents online in a range of formats, is part of our strategy for increasing the access to our reports and consultation documents while keeping the cost of production down. Making use of podcasts to explain the key issues in our inquiries, along with community fact sheets, some of which have been translated into community languages, are also part of our communication tools. We are also active on LinkedIn and our Twitter account now has over 12,000 followers! Ensuring that the ALRC's work is accessible to our stakeholders and also to the broader community has been a priority of mine, and utilising online communications to do so has meant that we are able to reach out to people around the country and ensure that their voices are heard and find a place in our processes.

Now onto the work of the past year. During 2016–17, the ALRC went back to its normal practice of undertaking two inquiries simultaneously—the Elder Abuse Inquiry and the Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples.

*“Having five women in leadership roles in any organisation would be quite rare, but in one as small as the ALRC, to have all the leadership roles filled by women is a significant achievement.” Professor Rosalind Croucher*

The Report for the Elder Abuse Inquiry, for which I was the lead Commissioner, was presented to the Attorney-General at the end of May 2017 and tabled in Parliament on 14 June. It was launched by the Attorney-General on World Elder Abuse Awareness Day 2017 on 15 June.

Elder abuse usually refers to abuse by family, friends, carers and other people where there is a relationship or expectation of trust. Commonly recognised categories of elder abuse include psychological or emotional abuse, financial abuse, physical abuse, neglect, and sexual abuse. The World Health Organization has estimated that the prevalence rate of elder abuse in high- or middle-income countries ranges from 2% to 14%.

In this Inquiry, the ALRC identified two sets of framing principles: dignity and autonomy, on the one hand; and protection and safeguarding, on the other. The recommendations in the Report seek to balance these two principles. Where possible, the ALRC has sought to recommend changes to the law that both uphold autonomy and provide protection from harm, but where this is not possible, greater weight is often given to the principle of autonomy respecting the choices that older persons have a right to make. The Report makes 43 recommendations for reform that embody the 'three Rs' of risk, response and redress: reducing risk; ensuring an appropriate response; and providing avenues for redress.

The Report begins with a consideration of aged care: a large and growing area of Commonwealth responsibility, and on which there was much attention at the time of writing the Report. The recommendations go to the reportable incidents scheme, employment of care workers and restrictive practices. The emphasis in these recommendations is on recognising risk and responding effectively.

Further recommendations focus on advance planning by a person, and include the areas of enduring documents, family agreements, superannuation, wills and banking. The remaining set of recommendations is focused on safeguarding against elder abuse in various settings: tribunal appointed guardians and administrators; social security; the National Disability Insurance Scheme; and new legislation in states and territories for safeguarding 'at-risk' adults. The ALRC has also looked to the longer horizon and developed a conceptual template to guide future reform through recommending the development of a National Plan to combat elder abuse.

The Elder Abuse Inquiry acknowledged the WHO's statement that elder abuse is 'everybody's business', but also sought to make it everybody's *responsibility*—a responsibility not only to recognise elder abuse, but most importantly, to respond to it effectively. The ALRC recommendations address what legal reform can do to prevent abuse from occurring and to provide clear responses and redress when abuse occurs. Ageing eventually comes to all Australians and ensuring that all older people live dignified and autonomous lives free from the pain and degradation of elder abuse must be a priority.

A full report on the Elder Abuse Inquiry is at Appendix C.

As with all our inquiries, the ALRC constituted an Advisory Committee for the Elder Abuse Inquiry and I thank the members of this Committee for their generous contributions and engagement throughout the 15 months of the Inquiry. The ALRC conducted 117 consultations all over the country, and received 458 submissions from a wide range of people and organisations, including: individuals in their private capacity; academics; lawyers; law societies and representative groups; community legal centres; advocacy groups; peak bodies; and state and federal

government agencies. Special mention must be made of the many submissions from individuals, who generously shared personal stories of heartache and frustration, of families torn apart by elder abuse and who live with the painful knowledge that their loved ones suffered at the end of their lives. One individual referred to their submission as an 'introduction to a nightmare'; another said, 'I am a broken person'. These stories present a devastating picture of ongoing grief, loss, anger and powerlessness. We are indebted to the many individuals who made the dynamics and experiences of elder abuse painfully clear and so powerfully put the need for action.

In February 2017, the ALRC received the Terms of Reference for an Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples, and Judge Matthew Myers AM was appointed to lead the Inquiry. The ALRC has been asked to consider laws and legal frameworks that contribute to the incarceration rate of Aboriginal and Torres Strait Islander peoples and inform decisions to hold or keep Aboriginal and Torres Strait Islander peoples in custody.

The ALRC recognises that the majority of Aboriginal and Torres Strait Islander peoples never commit criminal offences. However, that there is an over-representation of Aboriginal and Torres Strait Islander peoples in the prison system is evidenced in the ABS statistic that, while constituting only 2% of the Australian adult population, Aboriginal and Torres Strait Islander peoples currently represent 27% of the adult prison population. The figures involving women are even more concerning, with Aboriginal and Torres Strait Islander women constituting 34% of the adult female prison population, making them the fastest growing cohort in the prison system.

As a law reform body, the ALRC's remit is to focus on the legal factors that are contributing to this situation but we must also have regard to past reports and inquiries that have

highlighted the many social, political and economic factors that contribute to Aboriginal and Torres Strait Islander imprisonment rates. This is an important and historic inquiry. It is just over 25 years since the release of the landmark report of the Royal Commission into Aboriginal Deaths in Custody in 1991. Yet since that time the number of Aboriginal and Torres Strait Islander peoples in prison has doubled from 13% of the prison population to 27%. The task for the ALRC, in tackling what law can do to redress this situation, is urgent and of national significance, recognising that law is only one piece in a much larger historical, social and economic context that contributes to the drivers of incarceration.

The ALRC has undertaken a variety of stakeholder consultations around the country to gain an understanding of the multifaceted and intergenerational context of Aboriginal and Torres Strait Islander incarceration. A Discussion Paper with a call for submissions will be published in July 2017. An Advisory Committee has been constituted for the period of the Inquiry which met twice during the preparation of the Discussion Paper: on 20 March 2017 and on 5 June 2017.

A full report on the Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples is at Appendix C.

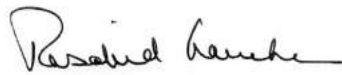
Finally, I want to take this opportunity to acknowledge and thank the members of all our Advisory Committees over the years of my presidency who freely gave their time and expertise, and the many people from the legal profession, academia, industry, the non-government sector, government departments and agencies and from the community—our stakeholders—for their contribution to our inquiries. The quality of the ALRC's work is a testament to this contribution and helps to ensure that our proposals are sensible and achievable and that they strike the right balance between competing interests and perspectives to deliver realisable reform to

the Australian community. I also want to acknowledge and thank the Attorney-General of Australia, Senator the Hon George Brandis QC for his support of my presidency and his off-stated faith in the ongoing importance of the ALRC and his appreciation of the quality of our work.

I must also thank the past and present staff of the ALRC—the legal officers whose commitment, energy and professionalism lies at the heart of our work and produces the high quality analysis and evidence that is the hallmark of ALRC consultation papers and reports. I've often referred to them as like a team of 'elite athletes'. The inquiry teams also include the support of the Executive Director, the Project Coordinator (and my EA), the Communications Manager, the Finance Manager and Finance Assistant, and the Office Services Coordinator—the engine room that underpins and facilitates the law reform process. I have enormous respect for them all as individuals and will miss them greatly. They are the ALRC's greatest asset.

As the ALRC is reliant on referrals from the Attorney-General, what the year ahead holds for the ALRC is in the hands of the Government and the areas of law the Government may wish the ALRC to interrogate. Although my successor is not yet announced, I know that I am leaving a resilient organisation that is eminently capable of taking on whatever work it is asked to do. I describe the inquiry work of the ALRC as a fine tapestry—the success of which depends first on the design (the scope), then on the weave (the process) and finally on the quality of the materials (our research and evidence base). Ensuring that all these elements are woven into the whole, guarantees the quality of the final product. I leave the ALRC with a strong team of dedicated professionals who are committed to providing the Government with frank and independent high quality evidence and advice; an engaged and active stakeholder pool willing to assist the

ALRC in its inquiries and respectful of the organisation and its processes; and a tried and tested methodology for achieving a consultative law reform process that underpins our recommendations, so that parliaments can make informed decisions about the reform of our laws and legal system. It has been a wonderful privilege to have held the presidency of such an organisation, one that I have never taken for granted. I will watch the next chapter in the ALRC's history with great interest and affection.



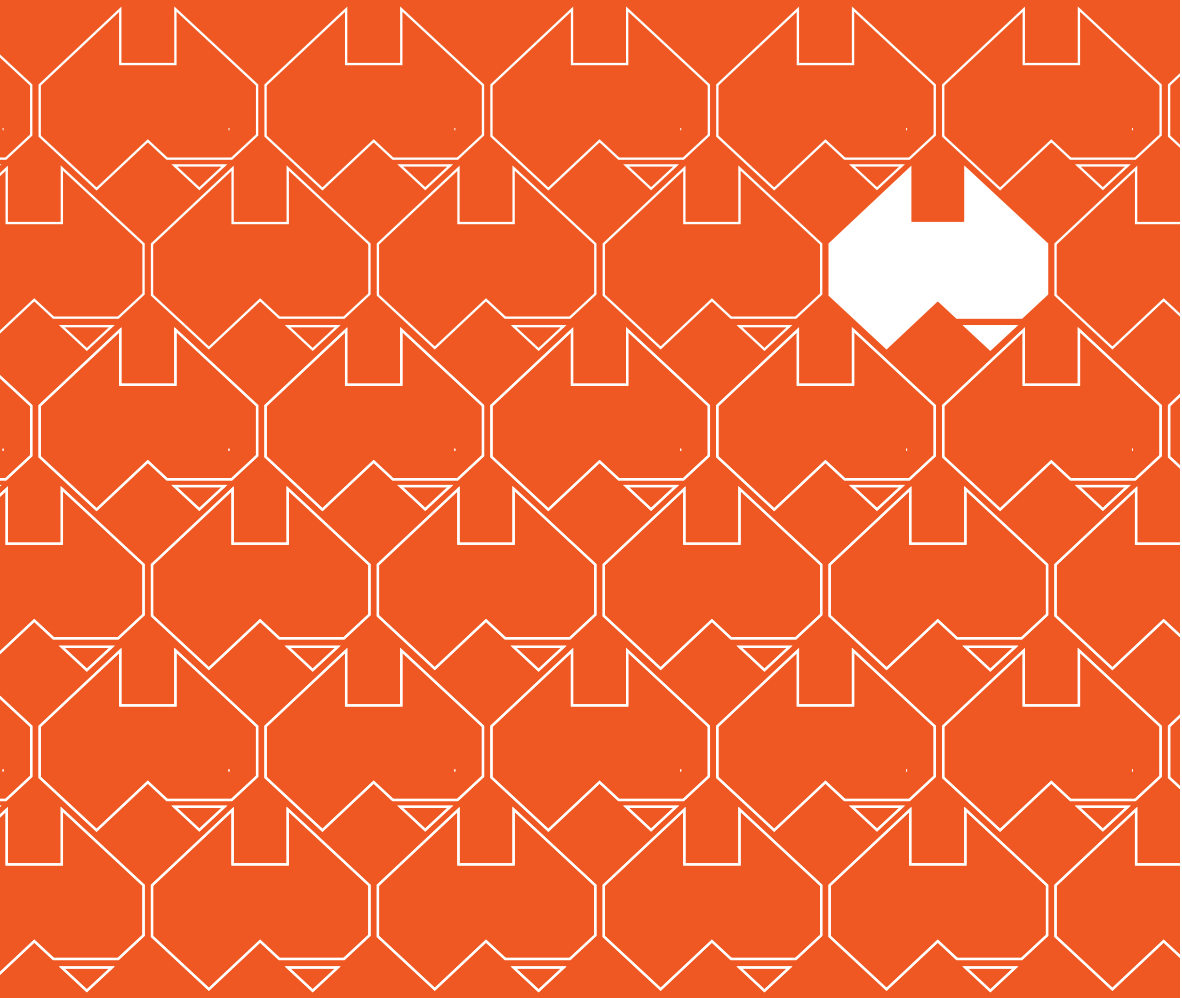
**Emeritus Professor Rosalind Croucher AM**





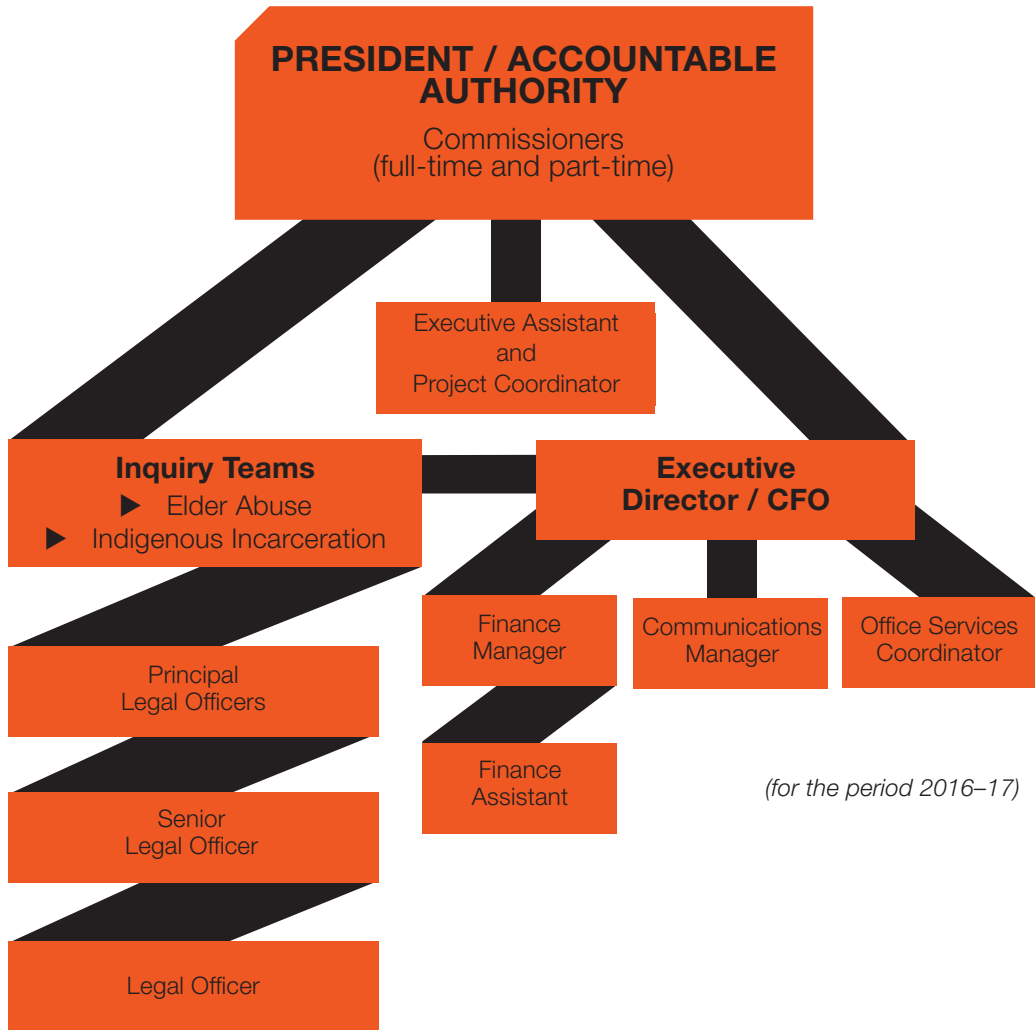
# 2

CORPORATE OVERVIEW



# ▶ **ALRC**

## ORGANISATIONAL STRUCTURE



*(for the period 2016–17)*

# ▶ ROLE AND FUNCTIONS OF THE ALRC

The ALRC is an independent statutory authority that operates under the *Australian Law Reform Commission Act 1996* (Cth) (ALRC Act), the *Public Governance, Performance and Accountability Act 2013* (Cth) (PGPA Act) and the *Public Service Act 1999* (Cth).

The ALRC is responsible to Parliament through the Attorney-General, the Minister responsible for the ALRC.

The primary function of the ALRC, as set out in s 21 of the ALRC Act, is to report to the Attorney-General on the results of any review or consideration it carries out and to include in the report its recommendations.

The ALRC is required to review Commonwealth laws relevant to those matters referred by the Attorney-General for the purposes of systematically developing and reforming the law particularly by:

- ▶ bringing the law into line with current conditions and ensuring that it meets current needs;
- ▶ removing defects in the law;
- ▶ simplifying the law;
- ▶ adopting new or more effective methods for administering the law and dispensing justice; and
- ▶ providing improved access to justice.

The ALRC is to consider proposals for making or consolidating Commonwealth laws, and must consider proposals for:

- ▶ the repeal of obsolete or unnecessary laws;
- ▶ uniformity between state and territory laws; and
- ▶ complementary Commonwealth, state and territory laws

with reference to those matters referred to it.

In performing its functions the ALRC is required by s 24 of the ALRC Act to ensure that the laws, proposals and recommendations it reviews, considers or makes:

- ▶ do not trespass unduly on personal rights and liberties or make the rights and liberties of citizens unduly dependent on administrative, rather than judicial, decisions; and
- ▶ are, as far as practicable, consistent with Australia's international obligations that are relevant to the matter.

The Commission, when formulating recommendations, must have regard to the effect that the recommendations may have on:

- ▶ the costs of getting access to, and dispensing, justice; and
- ▶ persons and businesses who would be affected by the recommendations (including the economic effect, for example).

# ▶ **SNAPSHOT** OF 2016–17

## **APPOINTMENTS AND CESSATIONS**

- ▶ On 28 November 2016, the Hon Justice Nye Perram was reappointed as a part-time Commissioner for a further period of three years
- ▶ On 28 November 2016, the Hon Justice John Middleton was reappointed as a part-time Commissioner for a further period of three years
- ▶ On 7 February 2017, Judge Matthew Myers AM was appointed as a part-time Commissioner to lead the Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples

- ▶ On 1 June 2017, the Hon Justice Nye Perram resigned as a part-time Commissioner.

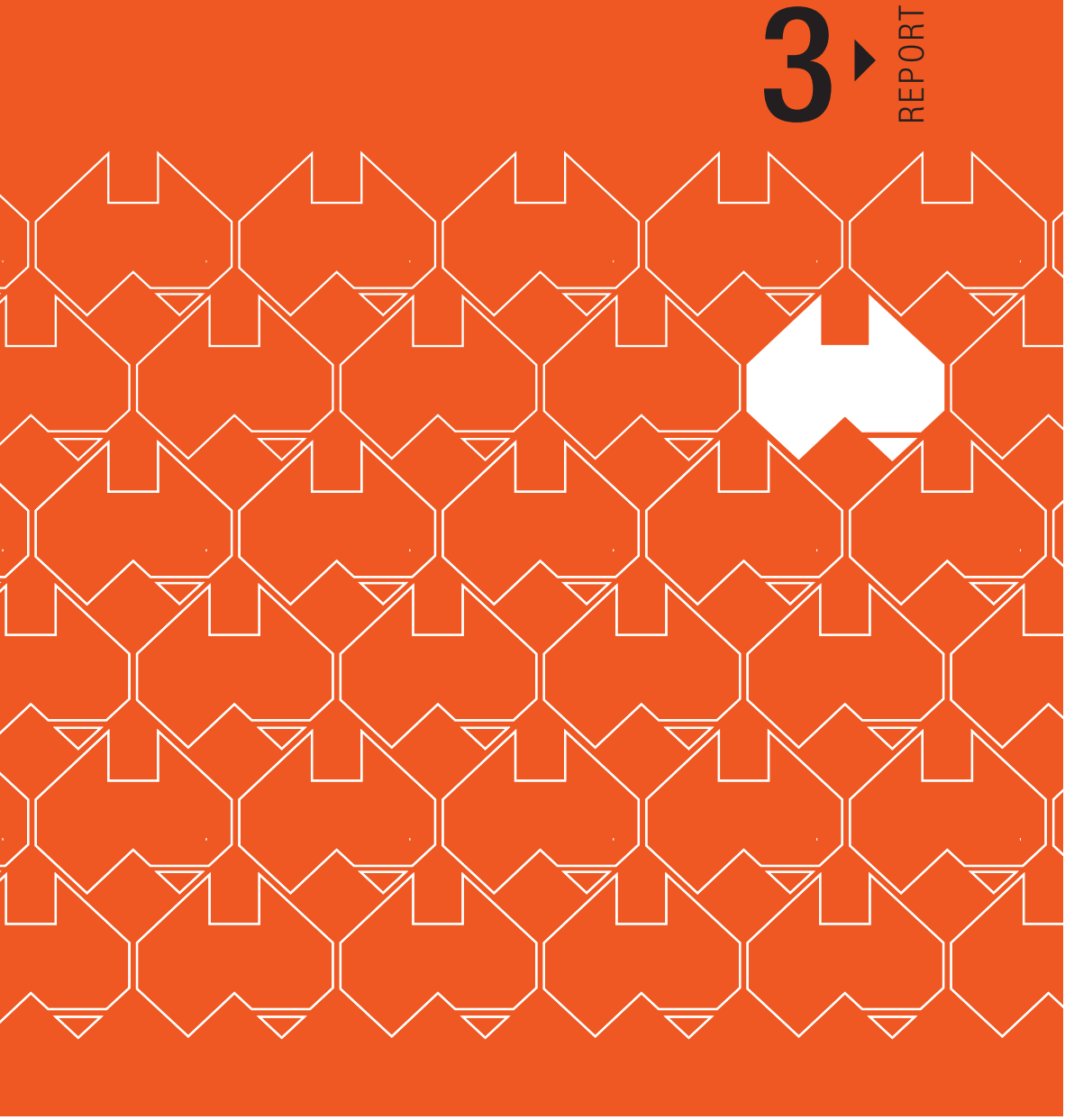
## **SIGNIFICANT EVENTS**

- ▶ On 10 February 2017, the ALRC received Terms of Reference for an Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples
- ▶ On 14 June 2017, the ALRC Final Report, *Elder Abuse—A National Legal Response* (ALRC Report 131) was tabled in Parliament.

## **PUBLICATIONS**

**TABLE 1:** ALRC publications completed 2016–17

AREA	PUBLICATION TITLE	DATE OF COMPLETION
Corporate	<i>Annual Report 2015–16</i> (ALRC Report 130)	16 September 2016
Elder Abuse	<i>Elder Abuse</i> (DP 83)	12 December 2016
Elder Abuse	<i>Elder Abuse—A National Legal Response</i> (ALRC Report 131)	31 May 2017



# 3

REPORT ON PERFORMANCE

# ▶ **OUTCOME** AND PROGRAM STRUCTURE

## **OUTCOME**

Informed government decisions about the development, reform and harmonisation of Australian laws and related processes through research, analysis, reports and community consultation and education

## **PROGRAM 1**

Conducting inquiries into aspects of Australian law and related processes for the purpose of law reform

## **DELIVERY**

- ▶ Conduct inquiries
- ▶ Undertake research
- ▶ Consult stakeholders
- ▶ Elicit submissions
- ▶ Produce consultation documents
- ▶ Produce reports
- ▶ Present at conferences & parliamentary inquiries
- ▶ Track implementation

## **KEY PERFORMANCE INDICATORS**

- ▶ Implementation of reports
- ▶ Citations or references
- ▶ Visitors to the website
- ▶ Submissions received
- ▶ Presentations and speaking engagements
- ▶ Media mentions

# ▶ ANNUAL PERFORMANCE STATEMENT

## INTRODUCTORY STATEMENT

The ALRC annual performance statement is prepared for paragraph 39(1)(a) of the PGPA Act for the 2016–17 financial year and accurately presents ALRC performance in accordance with subsection 39(2) of the PGPA Act.

## ALRC PURPOSE

The ALRC purpose is to review Commonwealth laws as referred to it by the Attorney-General for the purpose of making recommendations about law reform that will contribute to a fair, equitable and accessible system of federal justice and a just and secure society.

The ALRC has one outcome:

Informed government decisions about the development, reform and harmonisation of Australian laws and related processes through research, analysis, reports and community consultation and education (Outcome 1).

In delivering this outcome, the ALRC provides evidence-based reports that outline recommendations for law reform to contribute to an equitable and accessible system of federal justice and the harmonisation of Australia's laws and practices. In this way the ALRC contributes to the Attorney-General's mission—achieving a just and secure society.

The ALRC has one program to achieve its outcome:

Conducting inquiries into aspects of Australian law and related processes for the purpose of law reform (Program 1).

It is through the inquiry process that the ALRC is able to undertake the research and analysis that underpins recommendations for law reform and provides the basis for informed government decisions.

## DELIVERY

During 2016–17, the ALRC conducted two inquiries; held 194 stakeholder consultations; received 451 submissions; produced one consultation paper and one report; and presented at 34 conferences and seminars.

## PERFORMANCE CRITERIA

### Implementation rates

The ALRC tracks the implementation of its recommendations over time. The rate of implementation provides evidence of ALRC success in facilitating informed decision making by government, leading to development, reform and harmonisation of Australian laws and related processes.

### Citations

The number of citations of ALRC reports provides an indication of the relevance of ALRC work to legal proceedings and judgements.

### Visitors to website

The number of visitors to the ALRC website is an indicator of the community's engagement with the work (past and present) of the ALRC. This engagement underpins and gives confidence to informed government decision making.

## Submissions

The number of submissions received is one indicator of the breadth of the evidence base that underpins ALRC recommendations and of community engagement with law reform.

## Presentations and speaking engagements

Presenting at public conferences, seminars and Parliamentary inquiries ensures that the work of the ALRC is publicly debated and discussed.

## Media mentions

The number of media mentions provides an indicator of community engagement in the ALRC's work and contributes to the community's knowledge about the Government's law reform agenda.

## CRITERION SOURCE

The ALRC Performance Criteria are sourced from the ALRC Corporate Plan 2016–20 and Portfolio Budget Statements 2017–18 p 164.

## RESULT AGAINST PERFORMANCE CRITERIA

See Table 2, KPI performance 2016–17.

## ANALYSIS OF PERFORMANCE

The ALRC can only undertake inquiries that are referred to it by the Attorney-General. Therefore, the ALRC's performance from year to year will be affected by the government's law reform agenda and the number of inquiries referred to the ALRC and the prescribed timeframe as indicated in the Terms of Reference.

It is usual for the ALRC to work on two inquiries at any one time, as indicated in our Corporate Plan and Portfolio Budget Statements. However, in some years, the Attorney-General may refer more than two inquiries to us, or less, and this will affect performance against our targets.

The subject matter of an inquiry may also have an impact on performance against our targets. Some inquiries concern issues of broad general interest in the community, or are highly contentious, or attract a specific industry's focus and the community's engagement with the inquiry is high. This may result in many submissions being received and more consultations being undertaken. Other inquiries attract a smaller community response, with fewer submissions received, but are nonetheless still significant. Therefore, the ALRC's performance will be affected from year to year by circumstances outside of its control.

**TABLE 2:** KPI performance 2016–17

KPI MEASURE	2016–17 TARGET	2016–17 ACTUAL
Implementation of reports	85%	86%
Citations or references	50	66
Visitors to website	>250,000	1,166,131
Submissions received	150	451
Presentations and speaking engagements	25	34
Media mentions	250	317



During 2016–17, the ALRC worked on the Elder Abuse Inquiry and the Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples.

A report on ALRC Inquiries is at Appendix C.

### Implementation of reports

The ALRC has no direct role in implementing its recommendations. There is no statutory requirement for the Australian Government to respond formally to ALRC reports. However, the ALRC monitors major developments in relation to issues covered in its past reports, and assesses the level of implementation that those reports have achieved. It is not uncommon for implementation to occur some years after the completion of a report.

The ALRC considers that a report is ‘substantially implemented’ when the majority of the report’s key recommendations have been implemented by those to whom the recommendations are directed. ‘Partial implementation’ refers to implementation of at least some recommendations of an ALRC report. The term ‘awaiting response’ refers to reports that have been completed within the past 10 years in relation to which the ALRC is yet to receive a formal response from government. The term ‘not implemented’

refers to reports that were completed more than 10 years ago and for which there has been no response from government.

The levels of implementation of all ALRC reports are as follows:

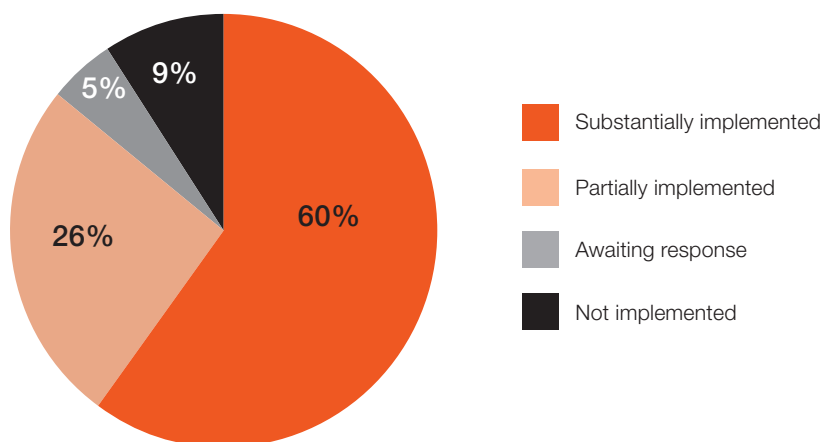
- ▶ 60% are substantially implemented;
- ▶ 26% are partially implemented;
- ▶ 5% are awaiting response; and
- ▶ 9% have not been implemented.

These figures represent an overall implementation rate for ALRC reports of 86%. Government has yet to respond to a number of recently completed ALRC reports, including: *Serious Invasions of Privacy in the Digital Era* (ALRC Report 123, 2014); *Connection to Country: Review of the Native Title Act 1993 (Cth)* (ALRC Report 126, 2015); *Traditional Rights and Freedoms—Encroachments by Commonwealth Laws* (ALRC Report 129, 2016); and *Elder Abuse—A National Legal Response* (ALRC Report 131, 2017).

Appendix D provides a detailed update on action in relation to implementation of ALRC reports during 2016–17.

A brief overview of the implementation status of all 88 inquiry-related ALRC reports can be found on the ALRC website at [alrc.gov.au/implementation-final-reports](http://alrc.gov.au/implementation-final-reports).

**CHART 1:** Implementation status of ALRC reports as at 30 June 2017



## Court citations

Past ALRC reports are cited by Australian courts and tribunals as well as in numerous academic articles and other publications.

During 2016–17, there were at least 66 mentions of ALRC reports in the judgments of Australian courts and tribunals.

These included citation in two cases in the High Court of Australia, 17 cases in the Federal Circuit Court of Australia, Federal Court of Australia or the Full Court of the Federal Court of Australia, four in the Family Court of Australia and 39 in state and territory Supreme Courts or Courts of Appeal, as well as four in the decisions of other courts and tribunals, such as the South Australian Industrial Court, the Administrative Appeals Tribunal of Australia and state civil and administrative tribunals.

The ALRC report most often cited across Australian courts, is *Evidence (Interim)* (ALRC Report 26, 1985) as it assists the judiciary by informing them of the background of the *Evidence Act 1995* (Cth) and state and territory uniform Evidence Acts. Later ALRC reports on evidence, *Evidence* (ALRC Report 38, 1987) and *Uniform Evidence Law* (ALRC Report 102, 2006), are also cited frequently. For example, in *Hughes v The Queen* [2017] HCA 20, the High Court referred to ALRC Reports 26, 38 and 102 when considering the tendency rule.

A number of early ALRC reports continue to be cited by the courts, including ALRC Report 4, *Alcohol, Drugs and Driving*, cited by the ACT Supreme Court in *Atmore v Milner* [2016] ACTSC 260. Other reports of enduring interest to litigants and courts are *Insurance Agents, Brokers and Contracts* (ALRC Report 20, 1982); *General Insolvency Inquiry* (ALRC Report 45, 1988); *Grouped Proceedings in the Federal Court* (ALRC Report 46, 1988); and *Collective Investments: Other People's Money* (ALRC Report 65, 1992).

A list of court and tribunal citations can be found in Appendix E.

## Mentions in Parliament

During 2016–17, ALRC reports and recommendations were referred to in second reading speeches and other Parliamentary proceedings on the following Commonwealth Bills:

- ▶ Native Title Amendment (Indigenous Land Use Agreements) Bill 2017;
- ▶ Copyright Amendment (Disability Access and Other Measures) Bill 2017;
- ▶ Privacy Amendment (Notifiable Data Breaches) Bill 2016;
- ▶ Migration Amendment (Family Violence and Other Measures) Bill 2016;
- ▶ Racial Discrimination Amendment Bill 2016.

## ALRC website

The ALRC website is a pivotal communication tool for the ALRC and a law reform resource for the wider public. The ALRC strives to continually build value into the website, both in terms of providing useful and accessible content relevant to stakeholders and researchers, and utilising its functionality as an online consultation tool.

Key website metrics for 2016–17:

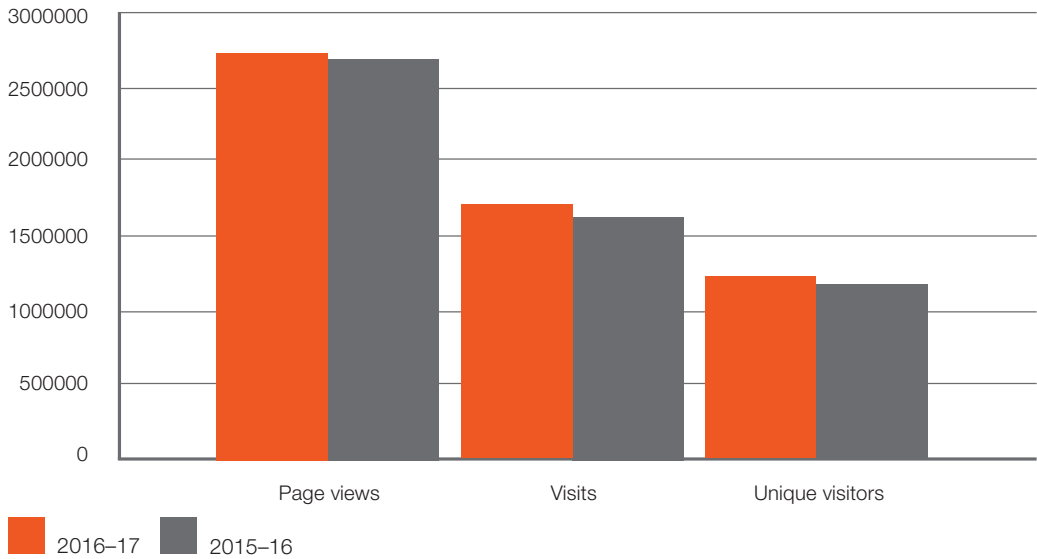
- ▶ visits = 1,643,767;
- ▶ page views = 2,682,870; and
- ▶ unique visitors = 1,166,131.

These metrics represent, compared to the 2015–16 reporting period:

- ▶ 3% increase in visits;
- ▶ 1% increase in page views; and
- ▶ 2% increase in unique visitors.

ALRC website statistics indicate that it is not just in implementation that the ALRC makes a significant contribution to the discussion of laws and legal frameworks in Australia.

**CHART 2:** Comparison of website traffic: July–June in 2015–16 and 2016–17



In 2016–17, the top five reports accessed by PDF downloads were:

1. *Elder Abuse* (DP 83)
2. *Recognition of Aboriginal Customary Laws* (ALRC Report 31)
3. *Elder Abuse* (IP 47)
4. *Uniform Evidence Law* (ALRC Report 102)
5. *Serious Invasions of Privacy in the Digital Era* (ALRC Report 123).

The inclusion in this list of the *Uniform Evidence* Report from 2006 and *Recognition*

of *Aboriginal Customary Laws* Report from 1986 illustrates the enduring value of the ideas, discussion and research contained in these landmark reports.

### Submissions

The number of submissions received by the ALRC is a measure of public engagement with its work and the extent to which the consultation papers have stimulated debate and discussion. However, the number of submissions received for any inquiry is also influenced by its subject matter—particular inquiries are likely to generate a greater, broader degree of public interest and participation than others.

**Table 3:** Submissions received 2016–17

CONSULTATION PAPER	SUBMISSION CLOSING DATE	SUBMISSIONS RECEIVED DURING REPORTING PERIOD
<i>Elder Abuse</i> (IP 47)	18 August 2016	221
<i>Elder Abuse</i> (DP83)	27 February 2017	230
<b>Total submissions received</b>		<b>451</b>

## Presentations and speaking engagements

Presenting at public conferences, seminars and Parliamentary inquiries ensures that the work of the ALRC is publicly debated and discussed. During 2016–17, ALRC Commissioners and staff made 28 presentations at a range of events around the country. They also contributed six articles to a range of journals and publications. A full list of presentations and articles is at Appendix F.

## Media mentions

The ALRC actively promotes public debate on issues raised by its current and past inquiries, and on law reform generally.

During 2016–17, the ALRC identified 317 mentions of its work across a range of media. This represents an increase of 30% from the previous reporting period.

The Elder Abuse Inquiry attracted most media attention (41%), due to the intense public and media interest in the subject.

In 2016–17 privacy law reform continued to rate highly in the public interest, with the recent Inquiry into Serious Invasions of Privacy

in the Digital Era and the ALRC's 2008 Privacy Inquiry together garnering 9% of media attention.

The Freedoms Report, tabled late in the previous reporting period, attracted 8% of media mentions.

The 2012 Copyright Report attracted 5% of media mentions, due to the implementation of some recommendations, and ongoing debate about 'fair use'.

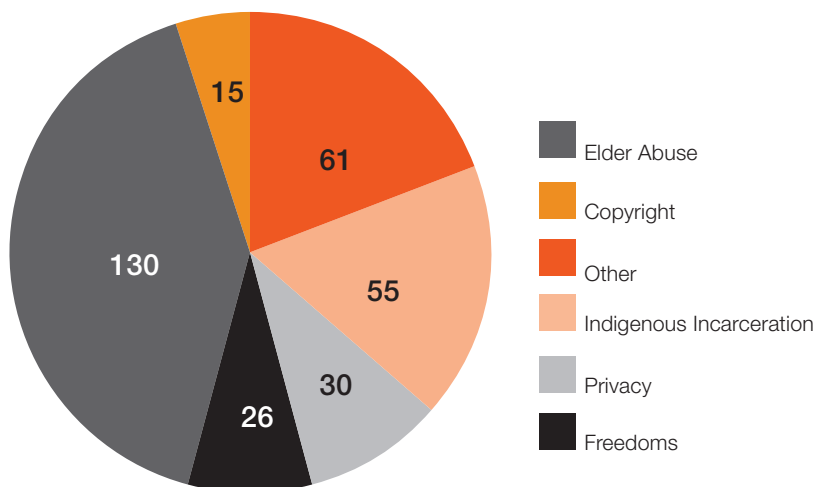
The ALRC conducts its own media monitoring. An archive of 2016–17 online media mentions is available on the ALRC website at [alrc.gov.au/news-media](http://alrc.gov.au/news-media).

## SIGNIFICANT DEVELOPMENTS AND CHALLENGES FOR 2017–18

During 2017–18, the ALRC will complete its Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples and will work on any further inquiry referred to it by the Commonwealth Attorney-General.

The ALRC's current lease expires in October 2018 and new premises will need to be sourced.

CHART 3: Media mentions per inquiry 2016–17



One challenge for the ALRC is that it does not set its own work program but is reliant on the Attorney-General's referrals. Therefore it is the government's reform agenda and timelines which determine the number and scope of inquiries that are referred to the ALRC, and this affects the ALRC's ability to meet its performance expectations. The ALRC would normally work on two inquiries concurrently.

In addition, the government's own program and priorities determine both when and how it considers completed ALRC inquiries, and the schedule for any implementation. This means that the rate of implementation of ALRC reports is in the hands of government, and there are many factors outside the ALRC's control that influence the government's ability and disposition to implement recommendations.

# ► **SUMMARY AND** ANALYSIS OF FINANCIAL PERFORMANCE

## **FINANCIAL OUTCOMES**

### **Operating outcome**

The 2016–17 financial statements show an operating surplus of \$0.039m.

### **Operating revenue**

The ALRC's operating revenue of \$2.790m comprised revenue from government of \$2.751m, revenue from sale of goods (publications) of \$0.003m, other revenue (audit remuneration) of \$0.031m and other gains (overpayment relating to publishing costs) of \$0.005m.

### **Operating expenses**

Total operating expenses of \$2.751m were \$0.114m more than in 2015–16. This increase is due to the ALRC working on two inquiries as opposed to one in the previous year.

The ALRC's depreciation and amortisation expense decreased by \$0.014m.

### **Equity**

The ALRC's total equity increased by \$0.055m. This includes contributed equity of \$0.016m.

### **Total assets**

The ALRC's total assets increased by \$0.030m.

### **Total liabilities**

The ALRC's total liabilities decreased by \$0.025m.

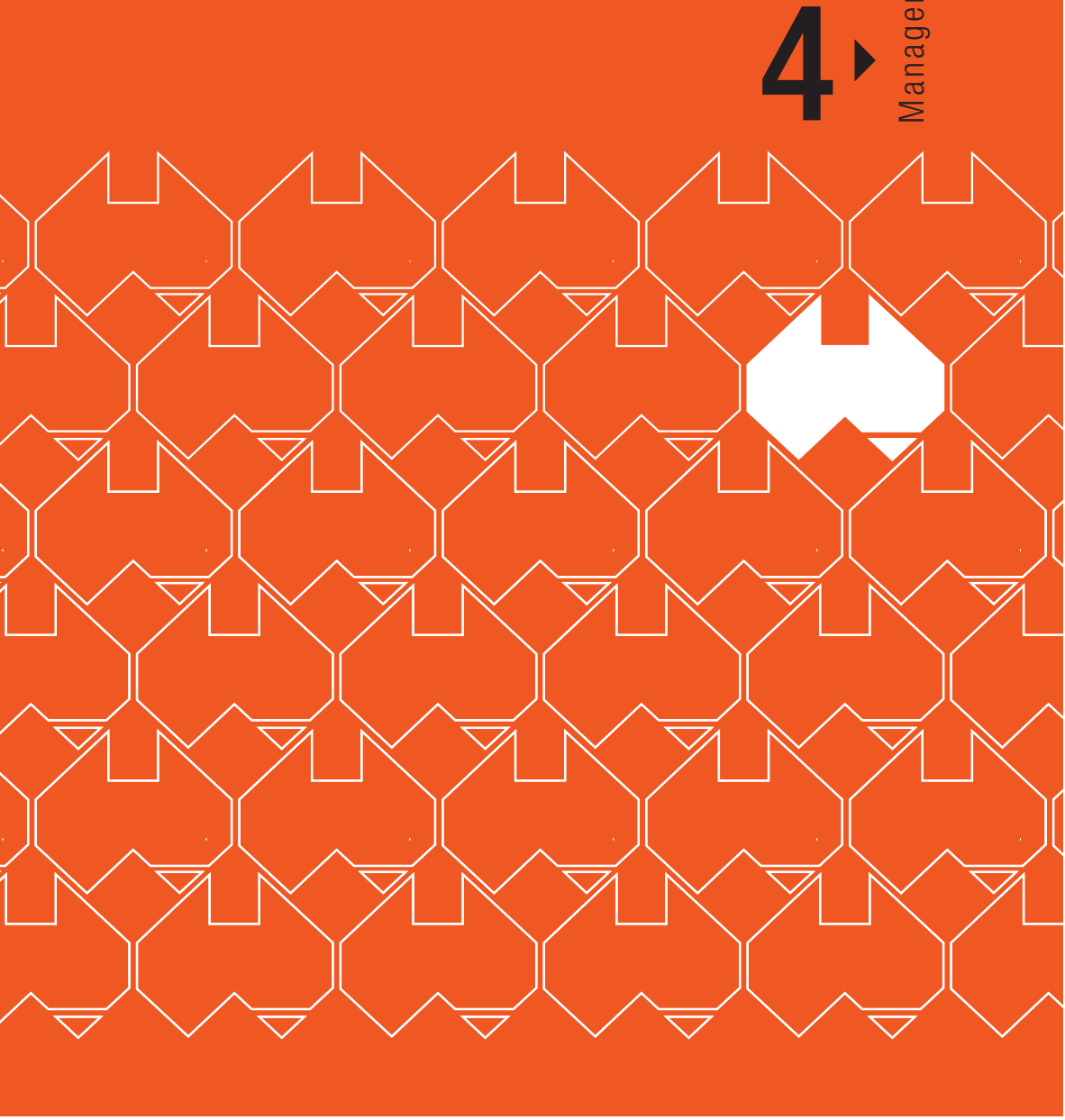
## **ENTITY RESOURCE STATEMENT**

The ALRC's Entity Resource Statement and Expenses for Outcomes 2016–17 which summarises the total resources available to the ALRC and the total payments made by the ALRC during 2016–17 is at Appendix B.

## **COMPLIANCE**

The ALRC has not had any significant non compliance with financial requirements and has therefore, not made any report to its Minister, the Attorney-General.

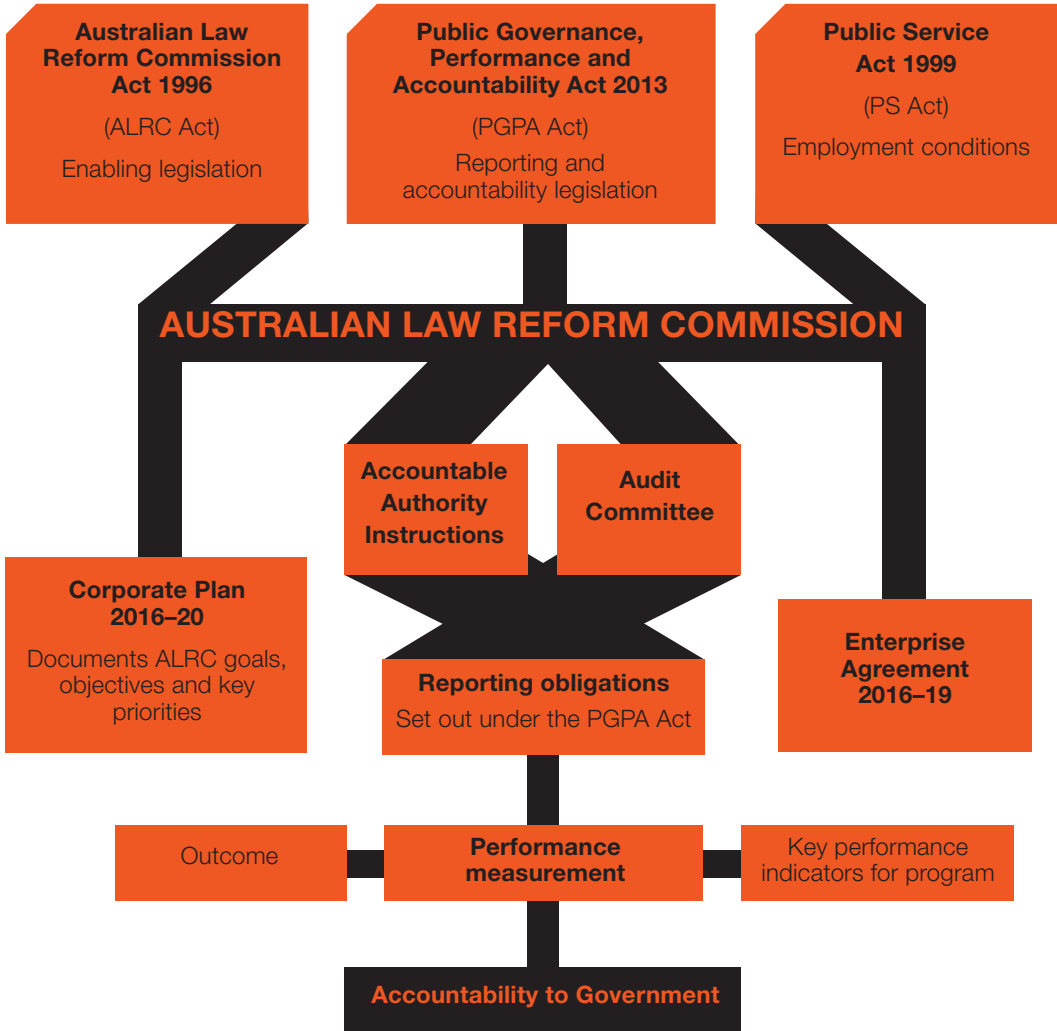




# 4 ▶

Management and accountability

# ▶ CORPORATE GOVERNANCE FRAMEWORK





# ▶ CORPORATE GOVERNANCE

ALRC accountability and governance requirements are met through its Accountable Authority Instructions. These provide the framework to ensure that the ALRC meets its obligations and responsibilities with regard to governance, reporting and accountability of Commonwealth entities and for their use and management of public resources, in line with the requirements of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

## MINISTERIAL POWERS

The Minister responsible for the ALRC is the Attorney-General of Australia.

The ALRC is a statutory agency under the PGPA Act and an employer subject to the *Public Service Act 1999*.

The ALRC is constituted under the *Australian Law Reform Commission Act 1996* (ALRC Act). Section 20 of the ALRC Act states that the Attorney-General may refer matters to the ALRC for review.

## MEMBERS OF THE COMMISSION

The President is the Accountable Authority of the ALRC. During 2016–17 there was one part-time Commissioner, appointed to the Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples, and two other part-time Commissioners. Table 4 lists members of the ALRC during 2016–17 and their terms of appointment. On 30 June 2017, there were three members of the ALRC—one full-time member and two part-time members.

**TABLE 4:** Members 2016–17

COMMISSIONER	TERM OF APPOINTMENT
<b>Full-time Commissioners</b>	
Professor Rosalind Croucher AM BA (Hons), LLB (Syd), PhD (UNSW), AMusA (AMEB), FRSA, FACLM (Hon), FAAL, TEP	Reappointed as President from 14 December 2015–13 December 2018.
<b>Part-time Commissioners</b>	
The Hon Justice Nye Perram SC BA, LLB (Hons) (Syd), BCL (Dist) (Oxon)	Resigned effective 1 June 2017. Reappointed 28 November 2016–27 November 2019. Reappointed 28 November 2015–27 November 2016.
The Hon Justice John Middleton QC LLB (Hons) (Melb), BCL (Oxon)	Reappointed 28 November 2016–27 November 2019. Reappointed 28 November 2015–27 November 2016.
Judge Matthew Myers AM BA, LLB (UNSW), MAppLaw (Family Law (Coll. Law), VocationalGradDip (Family Dispute Resolution) (Bond), FAAL	7 February 2017–22 December 2017.



### **Emeritus Professor Rosalind Croucher AM, President**

Before her appointment as ALRC Commissioner and President, Professor Croucher was Dean of Law at Macquarie University (from 1999). Prior to this she was a member of the law faculties of the University of Sydney and the University of New South Wales. Professor Croucher served as Chair of the Council of Australian Law Deans (2002); Vice President (Western Pacific), International Academy of Estate and Trust Law (1998–2005); Chair of the Scientific Committee for the World Congress of Medical Law 2004; and on the Program Committee for the 8th biennial conference of the International Association of Women Judges 2006.

Professor Croucher has lectured and published extensively, principally in the fields of equity, trusts, property, inheritance and legal history. She is an Honorary Fellow of the Australian College of Legal Medicine and a Foundation Fellow of the Australian Academy of Law.

On 26 January 2015, Professor Croucher was conferred the award of Member of the Order of Australia for “significant service to the law as an academic, to legal reform and education, to professional development, and to the arts”.

Professor Croucher is an Adjunct Professor of Macquarie University.



### **The Hon Justice Nye Perram, Part-time Commissioner**

Justice Nye Perram was appointed a part-time Commissioner of the ALRC for a term of three years on 28 November 2012. He was reappointed for a further year in 2015 and a further three years in 2016.

Justice Perram graduated from the University of Sydney with a Bachelor of Arts and a Bachelor of Laws and from the University of Oxford with a Bachelor of Civil Law.

Justice Perram practised as a barrister in New South Wales from 1993 and was appointed senior counsel in 2006. He was appointed to the Federal Court of Australia in 2008. At the time of his appointment to the Federal Court he was a member of the Law and Justice Foundation and the New South Wales Bar Council.

Justice Perram has specialised in constitutional law, administrative law, commercial law and equity. In 2005, he was a Director of the Public Interest Law Clearing House, an independent, not-for-profit legal referral service. He is currently Deputy President of the Copyright Tribunal.



### **The Hon Justice John Middleton, Part-time Commissioner**

Justice Middleton was appointed a part-time Commissioner of the ALRC for a term of three years on 28 November 2012. He was reappointed for a further year in 2015 and a further three years in 2016.

Justice Middleton was appointed to the Federal Court of Australia effective from 31 July 2006, is currently President of the Australian Competition Tribunal and was appointed a presidential member of the Administrative Appeals Tribunal effective from 24 November 2010.

Justice Middleton graduated from the University of Melbourne as Bachelor of Laws (First Class Honors) and from the University of Oxford as Bachelor of Civil Law (First Class Honors). He was the Winter Williams Scholar (University of Oxford (1976)). He was admitted to practise as a barrister and solicitor of the Supreme Court of Victoria in 1976. After serving as Associate to Sir Ninian Stephen, then Justice of the High Court of Australia, he was called to the Bar in 1979 where he practised predominantly in constitutional and administrative law, resources law and commercial law.

Justice Middleton was appointed one of Her Majesty's Counsel for the State of Victoria in 1991 and subsequently became Chairman of the Victorian Bar Council. He was awarded the Centenary Medal in 2003 for services, as a former Chairman of the Bar Council, to the community and to education.



### **Judge Matthew Myers AM, Part-time Commissioner**

Judge Myers was appointed a part-time Commissioner of the ALRC on 7 February 2017, to lead the Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples.

Judge Myers was appointed to the Federal Circuit Court of Australia in 2011. He is an Adjunct Professor of Law at the University of New South Wales and a fellow of the Australian Academy of Law. Judge Myers holds a Bachelor of Arts and a Bachelor of Laws from the University of New South Wales, a Master of Applied Law (Family Law) from the College of Law and a Vocational Graduate Diploma of Family Dispute Resolution from Bond University.

Judge Myers was awarded the NSW Law Society President's medal in 2011 and received the award of Member of the Order of Australia in 2013 for 'significant services to the community in the area of welfare and family law'.

Prior to his appointment, Judge Myers undertook work as a Notary Public, Accredited Collaborative Family Lawyer and as an Accredited Family Law Specialist with separate accreditation in New South Wales, Victoria and Queensland. Judge Myers was a Nationally Accredited Mediator and an Accredited Family Dispute Resolution Practitioner.

Judge Myers is a member of: the Board of Family and Relationship Services Australia; the CatholicCare Advisory Council (Broken Bay Dioceses); the Law Society of New South Wales Indigenous Issues Committee; the Central Coast Family Law Pathways Network Steering Committee; and Co-Chair of the Aboriginal Family Law Pathways Network.

## REMUNERATION

The Commonwealth Remuneration Tribunal determines the remuneration for all ALRC Commissioners.

## POLICIES

The Accountable Authority Instructions and the ALRC Policy Manual contain current ALRC policies, guidelines and procedures on a range of administrative matters. ALRC policies are regularly reviewed and revised, as required. All new and revised policies are approved by the President.

New policies implemented or updated during 2016–17 include:

- ▶ Enterprise Risk Management Plan 2017–19
- ▶ Enterprise Operational Risk Management Plan 2017–19
- ▶ Business Continuity Plan.

Policies that concern interaction with members of the public are published on the ALRC website. New staff members are advised of ALRC policies as part of the induction process and all staff have access to ALRC policies via the intranet.

## CORPORATE PLANNING

The ALRC Corporate Plan 2016–20 is reproduced in Appendix A. The Corporate Plan is also available on the ALRC website.

## FINANCIAL MANAGEMENT AND AUDIT

The audit of the 2015–16 financial statements was performed by the Australian National Audit Office (ANAO). The Auditor's opinion was that the financial statements of the ALRC were prepared in accordance with all relevant legislation and Finance Minister's Orders and give a true and fair view of the ALRC's financial position and performance. The ANAO conducted an interim audit of the ALRC 2016–17 financial accounts and provided an interim report to the Audit Committee on 26 June 2017. No material issues were identified at this time.

The ALRC Audit Committee is established in compliance with section 45 of the PGPA Act and section 17 of the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule). The objective of the Audit Committee is to provide independent assurance and assistance to the President on the ALRC risk, control and compliance framework, and its financial and performance reporting responsibilities.

The ALRC President authorises the Audit Committee, within its responsibilities, to:

- ▶ obtain any information it requires from any employee or external party (subject to any legal obligation to protect information);
- ▶ discuss any matters with the external auditor, or other external parties (subject to confidentiality considerations);
- ▶ request the attendance of any employee, including the President, at Audit Committee meetings; and
- ▶ obtain legal or other professional advice, as considered necessary to meet its responsibilities, with the prior approval of the President.

Section 17 of the PGPA Rule provides that the Audit Committee must consist of at least three persons who have appropriate qualifications, knowledge, skills or experience

to assist the Committee to perform its functions. The members of the ALRC Audit Committee, taken collectively, have a broad range of skills and experience relevant to the operations of the ALRC. This section also requires that the majority of the members of the Audit Committee of a non-corporate Commonwealth entity must be persons who are not officials of the entity.

The ALRC Audit Committee comprises three members, appointed by the President, as follows:

- ▶ Part-time Commissioner: Justice Nye Perram (Chair) (resigned in June 2017)
- ▶ External Member: Kathryn Hunter, Chief Financial Officer, Federal Court
- ▶ External Member: Darrell Yesberg, Chief Financial Officer, Australian Human Rights Commission
- ▶ External Member: Megan Pitt, Director, Australian Government Solicitor.

A representative of the ANAO is also invited to attend meetings of the Audit Committee.

The ALRC Audit Forward Plan sets a meeting schedule and outlines the activities of the Audit Committee over the next financial year. The Audit Committee met on 9 September 2016, 16 March 2017 and 26 June 2017.

## **FRAUD CONTROL AND RISK MANAGEMENT**

The ALRC's Accountable Authority certifies that the ALRC has prepared Fraud Risk Assessments and a Fraud Control Plan for 2016–18. The ALRC has a commitment to fraud control and for promoting efficient, effective and ethical use of Commonwealth resources. The ALRC Fraud Control Plan (FCP) will be reviewed in July 2017. The FCP is a strategic document drawing together all fraud prevention, detection, minimisation and reporting initiatives adopted by the ALRC to control fraud. The FCP provides the ALRC with appropriate mechanisms for preventing,

detecting, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific requirements of the ALRC. The FCP was developed from a risk assessment and is an integral part of the ALRC Assurance and Governance Framework. The ALRC also has a Fraud Policy Statement that sits alongside the FCP.

Fraud against the ALRC is defined as dishonestly obtaining a benefit, or causing a loss, by deception or other means. The President has responsibility for the corporate governance of the ALRC and for ensuring compliance with the *Commonwealth Fraud Control Guidelines*. The ALRC Audit Committee is responsible for the ongoing monitoring and review of the fraud control framework, including the actions agreed to in the FCP. The Executive Director is the Fraud Control Officer and is responsible for ensuring that the appropriate processes are in place to manage the risk of fraud.

During 2016–17, the ALRC has taken all reasonable measures to minimise the incidence of fraud and has raised awareness of fraud control among employees to foster an environment that encourages employee involvement in the strategies to prevent fraud.

Overall, the ALRC has a low to negligible residual fraud risk profile, with an effective control environment. In accordance with s 8.14 of the *Commonwealth Fraud Control Guidelines*, the ALRC collects any information relating to fraudulent matters and reports it to the Attorney-General's Department and the Australian Institute of Criminology annually. No fraudulent activity was detected in 2016–17.

## **ENTERPRISE RISK MANAGEMENT**

Enterprise risk management is a vital component of public sector management and is consistent with the obligations under the PGPA Act. In June 2017, the ALRC engaged an external consultant, Oakton Consultancy, to provide an external key controls audit and to update the ALRC Enterprise Risk Management Plan (ERMP).

The objective of the ERMP is to identify and articulate any organisational risks and to develop a mechanism to track and report on controls in place, and treatments required, to mitigate these risks.

The ALRC has continued to assess and manage its risks through:

- ▶ appropriate levels of insurance, including cover for public liability, directors' liability, and property loss or damage, with nature and levels of cover reviewed annually;
- ▶ a positive approach to work health and safety, based on preventative strategies, flexible return to work arrangements and early response to injury;
- ▶ provision of training to staff to ensure that they understand their responsibilities and have the skills necessary to fulfil their responsibilities;
- ▶ transparent reporting of financial management and operational matters, both internally and externally; and
- ▶ updated administrative policies aimed at preventing fraud and managing risk, through a Fraud Control Plan and Business Continuity Plan.

## ETHICS

The ALRC fosters a culture of integrity, honesty and fairness in the workplace and actively seeks to comply with all relevant laws, regulations, codes and government standards.

Employees of the ALRC are Australian public servants and must follow the APS Values and APS Code of Conduct, which articulate the culture and operating ethos of the ALRC and provide the framework within which employment powers will be exercised by the President. ALRC employees are expected to comply with ALRC policies, and with any lawful direction given by the President and/or their supervisor.

Any suspected or actual breaches of the APS Code of Conduct will be dealt with in

accordance with the ALRC's Procedures for Determining Breaches of the Code of Conduct, established in accordance with s 15(3) of the *Public Service Act 1999*. During 2016–17, there were no suspected or actual breaches of the APS Code of Conduct.

The ALRC has a Public Interest Disclosure Policy in accordance with the *Public Interest Disclosure Act 2013*. This Policy is available on the ALRC website and intranet. During 2016–17, there were no public interest disclosures.

## CONFLICT OF INTEREST

The ALRC Conflict of Interest Policy has been developed to protect the ALRC's reputation and integrity; to ensure that employees understand what a conflict of interest is, and how to recognise and avoid a conflict of interest; and to outline the ALRC process for disclosing an actual or potential conflict of interest. This Policy applies to Commissioners, employees, contractors and consultants engaged or employed by the ALRC.

Section 29 of the PGPA Act requires members to disclose any material personal interest in a matter under consideration by the Commission. Section 13(7) of the *Public Service Act 1999*, which contains the APS Code of Conduct, requires that an APS employee must disclose and take reasonable steps to avoid any conflict of interest (real or perceived) in connection with APS employment. In addition, s 10 of the Act requires that the Australian Public Service performs its functions in an impartial and professional manner.

ALRC employees are required to disclose a potential or actual conflict of interest in advance. Failing to disclose appropriately may be regarded as misconduct. The Executive Director maintains a Conflict of Interest Register that records any reported conflict of interest within the ALRC, for the purpose of monitoring and managing the conflict.

During 2016–17, there were no conflict of interest disclosures.

Full-time Commissioners (members) of the ALRC and the Executive Director make annual declarations of private interests, which are provided to the Attorney-General in August of each year.

## **RELATED PARTY DISCLOSURES**

Australian Accounting Standards Board (AASB) 124 sets out the Related Party Disclosures required by reporting entities including those producing General Government Sector financial statements.

The ALRC is committed to complying with applicable Accounting Standards and associated disclosures in the annual financial statements in compliance with AASB 124 and has developed a policy and reporting procedure that meets both the requirements of the AASB and the Department of Finance.

This policy requires that ALRC financial statements contain the disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related party relationships and by transactions and outstanding balances, including commitments.

## **INDEMNITY**

The ALRC carries directors' liability insurance for all Commissioners of the ALRC and members of the Audit Committee.

### **Nature of liability**

The ALRC insures against damages arising as a consequence of a wrongful act of a director, including an error by omission or commission; a misstatement or misleading statement; or negligent breach of duty.

The ALRC has not indemnified or agreed to indemnify any current or former officer against a liability other than by coverage under the directors' liability insurance.

# **EXTERNAL SCRUTINY AND CONTROLS**

There have been no significant developments affecting the ALRC's external scrutiny in 2016–17.

## **PARLIAMENTARY SCRUTINY**

Representatives of the ALRC may appear at Senate Estimates Committee Hearings to answer questions about ALRC operations.

The ALRC was called to Supplementary Budget Estimates on 18 October 2016, Additional Estimates on 23 February 2017, and to Budget Estimates on 25 May 2017.



# ▶ HUMAN RESOURCE MANAGEMENT

## STAFFING

The ALRC has one office in Sydney and all staff are located at this office. On 30 June 2017, the full-time equivalent staffing level was 13 FTE. This figure does not include Commissioners (2 FTE).

## INDIGENOUS EMPLOYMENT

As of 30 June 2017, for the current and preceding year, there was one employee and one Commissioner who identified as Indigenous.

## STAFF RETENTION AND TURNOVER

During 2016–17 two ongoing employees resigned from the ALRC. One ongoing employee extended their secondment to the Royal Commission into Institutional Child Sexual Assault.

## EMPLOYMENT CONDITIONS

Twelve non-SES employees are covered by the ALRC Enterprise Agreement 2016–19. The Enterprise Agreement sets out terms and conditions of employment. One SES employee is employed under a section 24(1) Determination of the *Public Service Act 1999*. Two employees are currently working with individual flexibility arrangements. The only non-salary benefits provided during the period were paid as a health and well-being allowance.

## PERFORMANCE REWARDS AND BONUSES

The ALRC Enterprise Agreement 2016–19 makes provision for performance appraisal and allows for performance to be rewarded through a mixture of movement up the salary scale and one-off performance bonuses for

**TABLE 5:** Staffing profile as at 30 June 2017

ALRC CLASSIFICATION	MEN	WOMEN	FULL-TIME	PART-TIME	TOTAL
Executive Director (SES-equivalent)		1	1		1
EL2/PLO (\$124,789–\$132,389)	2	2	4		4
EL1/SLO (\$92,854–\$121,155)		3	3		3
APS 5–6/LO (\$69,810–\$88,432)		2	2		2
APS 3–4 (\$55,108–\$67,777)		3	2	1	3
APS 1–2 (\$38,652–\$53,502)					
<b>Total</b>	<b>2</b>	<b>11</b>	<b>12</b>	<b>1</b>	<b>13</b>



**TABLE 6:** Performance rewards

PERFORMANCE RATING	OUTCOME
Exceeding performance expectations	2 pay point increase
Meets all performance expectations	1 pay point increase
Meets most performance expectations	Remain on current pay point
Does not meet performance expectations	Remain on current pay point or go down one or more pay points in accordance with procedures in Clause 20, 'Managing Underperformance'

**TABLE 7:** Performance bonuses 2016–17

CLASSIFICATION	NUMBER OF EMPLOYEES	TOTAL PAID	AVERAGE	RANGE
EL2	1	\$2,809.02	\$2809.02	\$2,809.02
EL1	2	\$3,281.86	\$1,640.93	\$997.86–\$2,284.00
APS 5–6	1	\$1,821.70	\$1,821.70	\$1,821.70

those at the top of their pay point salary band, as summarised above.

An employee who is at the maximum salary point for a classification will be eligible for a bonus of up to 2% of his or her annual salary, based on a performance appraisal. If rated as exceeding performance expectations, the bonus will be 2%. If rated as meeting all performance expectations, the bonus will be 1%. If rated as meeting most, or not meeting performance expectations, there will be no bonus awarded.

During 2016–17, four employees were awarded a performance bonus, amounting to a total bonus payment for the year of \$7,912.58.

Further details of total remuneration expenditure in 2016–17 are provided in the financial statements.

## STAFF DEVELOPMENT

The ALRC identifies and responds to the professional development needs of its employees as identified during the performance appraisal process to ensure that they are able to meet the ALRC's objectives. The ALRC also considers requests for education and training as they arise. The ALRC budgets for professional development at a whole-of-organisation level as well as for individual employees. In addition, the ALRC considers attendance at relevant conferences and professional seminars to contribute to the professional development of staff.

## STUDY LEAVE

Study leave is available for all ongoing employees (full-time and part-time). Study assistance provided by the ALRC is in the form of granting up to five days unpaid leave per academic year (part-time staff will be granted a pro rata amount) to facilitate an employee's study. No employees applied for study leave during 2016–17.

## ALRC INTERNSHIP PROGRAM

The ALRC offers internships to students in their penultimate or final year of a law degree. An internship at the ALRC provides experience in a public policy environment and skills development for students to increase their awareness of law reform processes and improve their legal research and writing skills. Interns join a team for a current ALRC inquiry and are supervised by the Commissioner in charge and/or Legal Officers.

Internships with the ALRC are highly sought after and there is a competitive selection process that includes a formal application and interview. The number of interns accepted at any one time depends on the current work program of the Commission. In 2016–17, 15 internships were offered. Interns were involved in a range of ALRC activities, including attending consultation meetings with inquiry stakeholders, Advisory Committee meetings and inquiry team meetings.

The ALRC captures the intern experience through interviews with students at the completion of their internship. They discuss the work they have been undertaking and describe the experience of interning at the ALRC. These podcasts are available on the ALRC website.

This year the ALRC was fortunate to have three Indigenous law students participate in the ALRC intern program.

Additionally, the ALRC hosted an Aurora Project supported intern for five weeks. The Aurora Project aims to improve educational outcomes for Indigenous Australians by facilitating internships at a range of organisations.

## Interns 2016–17

### Semester 2 (August–October, 2016)

- ▶ Farah Al Majed—University of Technology Sydney
- ▶ Scott Preswick—University of Technology Sydney
- ▶ Christina Alkhamisi—University of Western Sydney
- ▶ Georgia Allen—Sydney University
- ▶ Tierneigh Parnell—Macquarie University.

### Summer (January–February 2017)

- ▶ Muirgen O’Seighin—Queensland University
- ▶ Sarah Moorhead—Melbourne University
- ▶ Stephen O’Connell—Melbourne University
- ▶ Erin Ryan—Melbourne University
- ▶ Madeleine Rice—University of Western Australia
- ▶ Hanna Daych—Flinders University.

### Semester 1 (March–June, 2017)

- ▶ Sharfah Mohamed—Macquarie University
- ▶ Cassidy O’Sullivan—Sydney University
- ▶ Taylah Mihell—University of Technology Sydney
- ▶ Ganur Maynard—University of NSW
- ▶ Deisree Leha—University of NSW (until April 2017)
- ▶ Noah Bedford—University of NSW (until April 2017).

### Aurora Project Intern (June–July 2017)

- ▶ Declan Fry—University of Melbourne.

Semester 1, 2017 Interns

ALRC President, Professor Rosalind Croucher; Sharfah Mohamed; Taylah Mihell; Gunar Maynard; ALRC Commissioner, Judge Matthew Myers



## ▶ OTHER REPORTING REQUIREMENTS

### PROCUREMENT AND PURCHASING

Purchasing within the ALRC is guided by its Procurement and Purchasing Policy, which is consistent with the Commonwealth Procurement Rules (CPRs) and the PGPA Act. As an agency expending public money, the ALRC must be accountable for its resources and expenditure.

The ALRC Procurement and Purchasing Policy sets 'value for money' as the core principle in procurement decisions and also ensures that ALRC procurement encourages competition and the proper use of resources, accountability and transparency. 'Value for money' in a procurement process requires a comparative analysis of all relevant costs and benefits of each proposal throughout

the whole procurement cycle (whole-of-life costing) and making decisions in an accountable and transparent manner. 'Value for money' also involves adopting processes that reflect the scale and risk profile of a particular procurement and that simple procurements should be undertaken using simple processes.

Risk management is built into ALRC procurement processes and the extent of risk management required will vary from following routine procurement processes, to a significant undertaking involving the highest level of planning, analysis and documentation.

Where the Government has established a coordinated Whole-of-Government procurement contract for a particular

property or service, the ALRC will use the Government contract established for that property or service, unless an exemption has been provided. The ALRC currently uses a coordinated procurement contract for travel, purchasing major office machines, desktop computers, Microsoft software and office supplies.

The ALRC publishes an Annual Procurement Plan on the AusTender website. The ALRC has previously reported Contract Notices for:

- ▶ Secure Internet Gateway—CN 3096982
- ▶ Subscriptions to online legal services—CN 3084922
- ▶ ICT support—CN 3081972
- ▶ Rent—CN 3081902
- ▶ Office supplies and stationary—CN 1014931 and CN 1014921
- ▶ Photocopiers—CN 824411.

During 2016–17, no new contracts were entered into by the ALRC.

### Procurement initiatives to support small business

The ALRC supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website.

Due to the nature of the operations of the ALRC and its small size, the ALRC's procurement is small in scale and under the \$200,000 threshold. Much of the ALRC's procurement is either through Whole-of-Government panels or from SMEs. The ALRC's Procurement and Purchasing Policy facilitates the involvement of SMEs in procurement by:

- ▶ adopting a risk assessment framework for procurement that is commensurate with the scale and scope of the procurement;

- ▶ communicating in clear simple language and presenting information in an accessible format; and
- ▶ utilising electronic systems to facilitate on-time payments where possible.

### Indigenous procurement

During 2016–17, the ALRC contracted with one Indigenous SME to provide services as follows:

- ▶ Gilimbaa—production of artwork for the Inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples.

The ALRC also purchased office supplies sourced from Muru Group.

### CONSULTANCIES

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.

From time to time, the ALRC may engage consultants. Prior to engaging consultants, the ALRC takes into account the skills and resources required for the task, the skills available internally, and the cost-effectiveness of engaging external expertise.

During 2016–17, one new consultancy contract was entered into involving total actual expenditure of \$0.010m, to update the ALRC Fraud Control Plan. There were no ongoing consultancy contracts active during the reporting period.

### ADVERTISING AND MARKET RESEARCH

As required under s 311A of the *Commonwealth Electoral Act 1918*, the ALRC reports that, during 2016–17, it did not undertake any advertising campaigns nor conduct any market research with advertising agencies, market research organisations, polling organisations, direct mail organisations, or media advertising organisations.

## DISABILITY STRATEGY

The ALRC is committed to the inclusion of people with disability in its inquiry work. The ALRC encourages consultation with people with disability by presenting our publications in a range of different formats and, at the end of our inquiries, providing community information sheets that outline the key recommendations made in its reports that may impact on people with disability, where relevant.

Information on How to Make a Submission and on the Law Reform Process is available on the ALRC website in Easy English. Easy English combines text and images to convey information simply and directly and is designed specifically for people with low English literacy.

Disability reporting is published in the Australian Public Service Commission's State of the Service Report and the APS Statistical Bulletin. These reports are available at [apsc.gov.au](http://apsc.gov.au).

The National Disability Strategy 2010–2020, sets out a ten-year national policy framework to improve the lives of people with disability, promote participation and create a more inclusive society. A high level two-yearly report will track progress against each of the six outcome areas of the Strategy and present a picture of how people with disability are faring. These reports can be found at [dss.gov.au](http://dss.gov.au).

## FREEDOM OF INFORMATION

Agencies subject to the *Freedom of Information Act 1982* are required to publish information to the public as part of the Information Publication Scheme. This requirement is in Part II of the FOI Act and has replaced the former requirement to publish a section 8 statement in an Annual Report. The ALRC Information Publication Plan is updated annually and contains details about the information held within the ALRC, and how it handles this information. The Plan is published on the ALRC website at [alrc.gov.au/ips-agency-plan](http://alrc.gov.au/ips-agency-plan).

During 2016–17, the ALRC received no FOI requests.

## LEGAL SERVICES EXPENDITURE

As per the *Legal Services Directions 2005*, the ALRC reports that during 2016–17 the ALRC was compliant with these Directions. The ALRC spent \$7,557.50 on legal expenditure for 2016–17.

## WORK HEALTH AND SAFETY

The ALRC is committed to providing and maintaining the highest degree of work health and safety for all employees and other persons who engage with the ALRC's work by aiming to prevent all injury and illness potentially caused by working conditions. The ALRC recognises its responsibility to provide a healthy and safe workplace for employees and to provide them with easily accessible information on work health and safety matters.

The ALRC Health and Safety Management Arrangements and Work Health and Safety Policy (WH&S Policy) provide the framework for ensuring the health, safety and welfare of all its employees. The ALRC has a commitment to consult with employees and their representatives on health and safety issues and to work together to ensure a safe work environment. As part of this, the ALRC shares relevant information about health, safety and welfare with employees and ensures that they are given the opportunity to express their views and to contribute in a timely fashion to the resolution of work health, safety and welfare issues.

The ALRC supports the use of a risk management approach to work health and safety. The ALRC identifies any potential risks to the health and safety of ALRC employees and puts in place strategies to minimise any potential hazards or risks. WH&S policies are accessible to employees on the ALRC file server and new employees are provided with information on work health and safety as part of the induction process.

The ALRC has a Work Health and Safety Committee that meets at least once per year, or as needed. ALRC employees have a responsibility to report to the Committee any situation that could constitute a hazard to the health, safety or welfare of any ALRC employee. There were no accidents or any dangerous occurrences during 2016–17 that required giving of notice under the WH&S Act.

All employees undertake emergency procedures training at least once per year. Fire Warden training is also undertaken on a regular basis as part of our tenancy requirements.

As a workplace health initiative under its Enterprise Agreement, the ALRC provides free and voluntary influenza vaccinations to staff each year. In 2016–17, ten employees took advantage of a free vaccination.

The ALRC also offers a reimbursement of up to \$150 per annum for activities that contribute to employees' health and well-being. In addition, all employees have access to a free and confidential counselling service that provides up to three free sessions of counselling per year.

## ENVIRONMENTAL PERFORMANCE

The ALRC maintains efficient and effective environmental office practices that comply with relevant government policy and environmental legislation. The ALRC Environmental Management Policy is available on the ALRC website and, in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act), it commits the ALRC to minimise the ecological footprint of its activities by:

- ▶ incorporating environmental management considerations into core business and management practices including the organisation of the ALRC core program—conducting inquiries;

- ▶ considering environmental impacts of all purchases made and ensuring that, wherever possible, options chosen include recyclable products, minimum packaging and minimum toxic chemicals;
- ▶ creating a culture where sustainable environmental management is considered an integral element of all ALRC activities and providing information to staff as to the recycling system and to maximising energy efficiency;
- ▶ setting measurable environmental targets as part of a continual improvement process;
- ▶ regularly monitoring environmental performance and providing reports to Government, as required; and
- ▶ reviewing this Policy at least every two years to ensure it is relevant and delivering desired outcomes.

In line with the principles of ecologically sustainable development, and in line with s 516A of the EPBC Act, the ALRC makes the following report for 2016–17:

### Energy efficiency

The ALRC is located in the MLC Centre at Level 40, 19 Martin Place, Sydney. The MLC building has achieved 4.5 stars under the NABERS Energy rating system which is current until January 2018. NABERS is a performance-based rating system which measures the overall environmental performance of a building during its hours of operation.

Automated lighting controls are used in the ALRC office that switch off office lighting when people are out of the office, and non-essential lighting outside of work hours. Employees are requested to turn off computers, printers and photocopiers over weekends to minimise energy use.

## Waste and recycling

The ALRC supports recycling programs including for paper, co-mingled material and electronic equipment as part of our office tenancy. ALRC employees are encouraged to sort waste appropriately in order to maximise recycling and minimise the ALRC disposal of waste to landfill.

## Water

The ALRC office is located at the MLC Centre and it is not possible to rate the ALRC water usage separately. NABERS Water measures the water consumption of an office building on a scale of one to five stars, reflecting the performance of the building relative to the market, from least efficient (one star) to best practice (five stars). Two and a half stars is the current market average. The MLC building received a rating of 2.5 stars under the NABERS Water rating system, which is valid until January 2018.

## Air travel

ALRC employees are encouraged to undertake air travel only where there is a demonstrated business need and other communication methods, such as teleconferencing, are not available or not appropriate in the circumstances. The ALRC's air travel is most commonly to undertake consultations for inquiry purposes and to ensure that people from around Australia are able to meet with the ALRC about the areas of law that are under review.

## Vehicles

The ALRC does not have a vehicle fleet. When ALRC Executives are provided with vehicles as part of their remuneration package they must conform to the ALRC Executive Vehicle Policy in which they are asked to treat fuel efficiency and carbon emissions as significant factors when choosing a vehicle. ALRC employees use public transport and share vehicles as far as possible.

## Printing

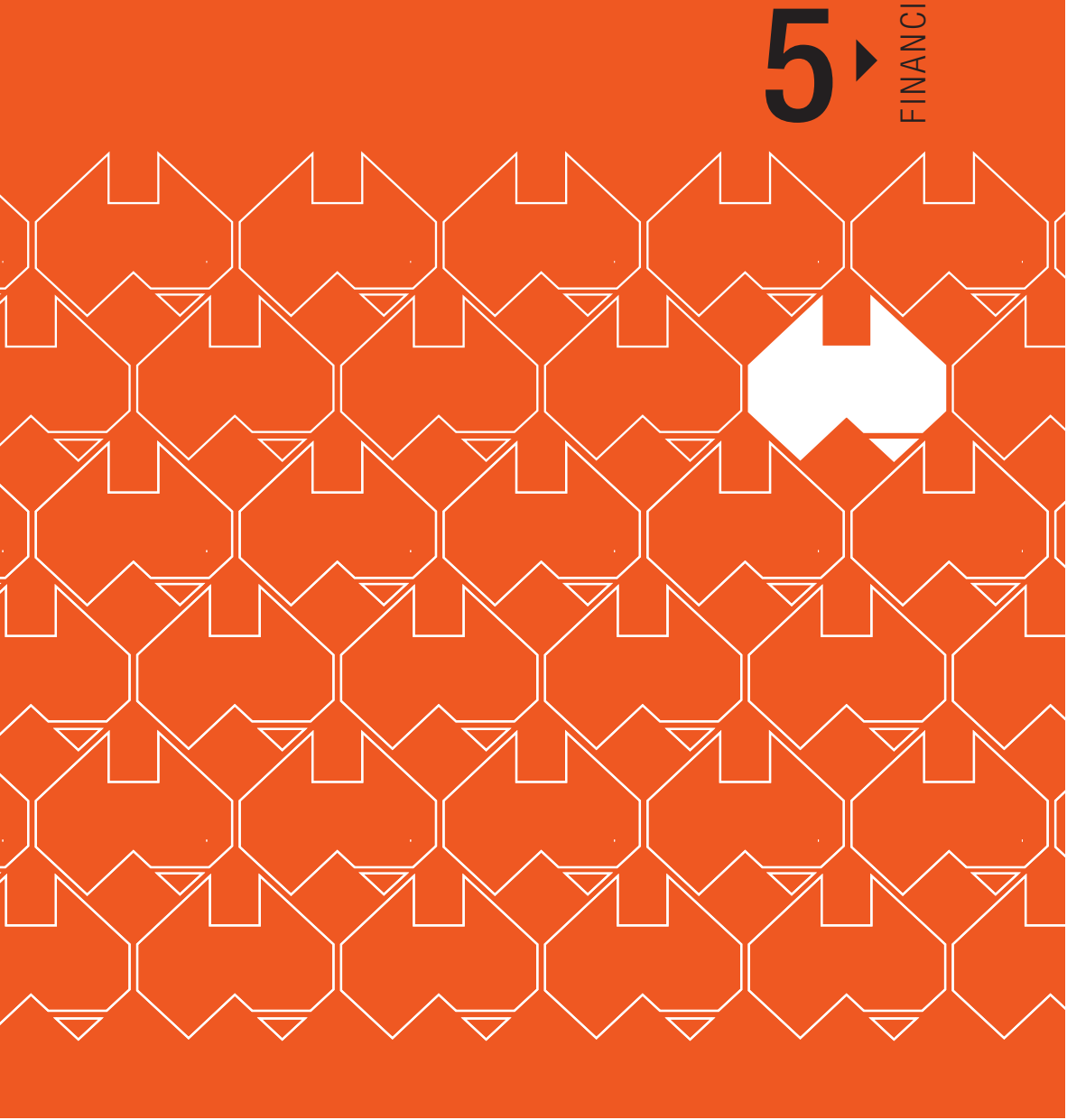
The ALRC has committed to reducing the amount of print copies of documents produced. Consultation papers are now only published online, unless there are special circumstances that require a hard copy to be produced.

All employees are encouraged to consider ways to minimise printing and encouraged to print double-sided for documents that are for internal purposes. The general-use office copy paper is 100% recycled, carbon neutral and Forest Stewardship Council rated.

As part of the government's digital transition policy, the ALRC has moved away from the creation and storage of paper records and in turn has reduced both the usage of paper and the amount of printing done by the organisation.







# 5

## FINANCIAL STATEMENTS



## INDEPENDENT AUDITOR'S REPORT

### To the Attorney-General

#### Opinion

In my opinion, the financial statements of the Australian Law Reform Commission for the year ended 30 June 2017:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Australian Law Reform Commission as at 30 June 2017 and its financial performance and cash flows for the year then ended.

The financial statements of the Australian Law Reform Commission, which I have audited, comprise the following statements as at 30 June 2017 and for the year then ended:

- Statement by the President and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement; and
- Notes to the financial statements, comprising a summary of significant accounting policies and other explanatory information

#### Basis for Opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Australian Law Reform Commission in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* to the extent that they are not in conflict with the *Auditor-General Act 1997* (the Code). I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

#### Accountable Authority's Responsibility for the Financial Statements

As the Accountable Authority of the Australian Law Reform Commission, the President is responsible under the *Public Governance, Performance and Accountability Act 2013* for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under that Act. The President is also responsible for such internal control as the President determines is necessary to enable the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the President is responsible for assessing the Australian Law Reform Commission's ability to continue as a going concern, taking into account whether the entity's operations will cease as a result of an administrative restructure or for any other reason. The President is also responsible for disclosing matters related to going concern as applicable and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

#### Auditor's Responsibilities for the Audit of the Financial Statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when

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it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Lesa Craswell  
Acting Executive Director

Delegate of the Auditor-General

Canberra  
15 September 2017

Australian Law Reform Commission  
Forms of Financial Statements 2016-17

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- Statement of Financial Position
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AUSTRALIAN LAW REFORM COMMISSION

**STATEMENT BY THE PRESIDENT AND CHIEF FINANCIAL OFFICER**

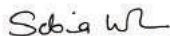
In our opinion, the attached financial statements for the year ended 30 June 2017 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Australian Law Reform Commission will be able to pay its debts as and when they fall due.



Robert Cornall  
President

15 September 2017



Sabina Wynn  
Chief Financial Officer

15 September 2017

## AUSTRALIAN LAW REFORM COMMISSION

### Statement of Comprehensive Income for the period ended 30 June 2017

	Notes	2017 \$	2016 \$	Original Budget \$
<b>NET COST OF SERVICES</b>				
<b>Expenses</b>				
Employee benefits	1.1A	2,031,673	1,990,365	2,078,000
Suppliers	1.1B	688,893	602,354	701,000
Depreciation and amortisation	2.2A	30,430	44,596	48,000
<b>Total expenses</b>		<b>2,750,996</b>	<b>2,637,315</b>	<b>2,827,000</b>
<b>Own-Source Income</b>				
<b>Own-source revenue</b>				
Sale of goods and rendering of services	1.2A	2,515	4,387	5,000
Other revenue	1.2B	31,000	29,000	23,000
<b>Total own-source revenue</b>		<b>33,515</b>	<b>33,387</b>	<b>28,000</b>
<b>Gains</b>				
Other gains	1.2C	5,560	-	-
<b>Total gains</b>		<b>5,560</b>	<b>-</b>	<b>-</b>
<b>Total own-source income</b>		<b>39,075</b>	<b>33,387</b>	<b>28,000</b>
<b>Net (cost of)/contribution by services</b>		<b>(2,711,921)</b>	<b>(2,603,928)</b>	<b>(2,799,000)</b>
Revenue from Government	1.2D	2,751,000	2,658,000	2,751,000
<b>Surplus/(Deficit) before income tax on continuing operations</b>		<b>39,079</b>	<b>54,072</b>	<b>(48,000)</b>
<b>Surplus/(Deficit) after income tax on continuing operations</b>		<b>39,079</b>	<b>54,072</b>	<b>(48,000)</b>
<b>OTHER COMPREHENSIVE INCOME</b>				
<b>Items not subject to subsequent reclassification to net cost of services</b>				
Changes in asset revaluation surplus		-	8,060	-
<b>Total other comprehensive income</b>		<b>-</b>	<b>8,060</b>	<b>-</b>
<b>Total comprehensive income</b>		<b>39,079</b>	<b>62,132</b>	<b>-</b>

The above statement should be read in conjunction with the accompanying notes.

#### Budget Variances Commentary

##### Statement of Comprehensive Income

The variance in total expenses and Revenue from Government between budget and actual, greater than 10%, is due to the following:

Employee benefits and suppliers decreased against the budgeted amount. The Commission was only able to undertake one inquiry for half of the financial year instead of the usual two concurrent inquiries. A second full-time Commissioner was appointed from February 2017 and supplier costs were also reduced.

The variance in depreciation was a timing issue. The budgeted amount had not been updated to take into consideration the Commission's plant & equipment.

## AUSTRALIAN LAW REFORM COMMISSION

### Statement of Financial Position

as at 30 June 2017

	Notes	2017 \$	2016 \$	Original Budget \$
<b>ASSETS</b>				
<b>Financial assets</b>				
Cash and cash equivalents	2.1A	1,332,011	1,287,812	1,188,000
Trade and other receivables	2.1B	6,919	9,222	10,000
<b>Total financial assets</b>		<b>1,338,930</b>	<b>1,297,034</b>	<b>1,198,000</b>
<b>Non-financial assets</b>				
Plant and equipment	2.2A	35,049	65,479	92,000
Other non-financial assets	2.2B	34,189	15,310	52,000
<b>Total non-financial assets</b>		<b>69,238</b>	<b>80,789</b>	<b>144,000</b>
<b>Total assets</b>		<b>1,408,168</b>	<b>1,377,823</b>	<b>1,342,000</b>
<b>LIABILITIES</b>				
<b>Payables</b>				
Suppliers	2.3A	17,554	29,674	40,000
Other payables	2.3B	125,309	161,778	245,000
<b>Total payables</b>		<b>142,863</b>	<b>191,452</b>	<b>285,000</b>
<b>Provisions</b>				
Employee provisions	4.1A	518,584	494,729	453,000
<b>Total provisions</b>		<b>518,584</b>	<b>494,729</b>	<b>453,000</b>
<b>Total liabilities</b>		<b>661,447</b>	<b>686,181</b>	<b>738,000</b>
<b>Net assets</b>		<b>746,721</b>	<b>691,642</b>	<b>604,000</b>
<b>EQUITY</b>				
Contributed equity		271,000	255,000	271,000
Reserves		135,058	135,058	127,000
Retained surplus		340,663	301,584	206,000
<b>Total equity</b>		<b>746,721</b>	<b>691,642</b>	<b>604,000</b>

The above statement should be read in conjunction with the accompanying notes.

#### Budget Variances Commentary

##### Statement of Financial Position

The variance in the statement of financial position between budget and actual, greater than 10%, is due to the following:

The variance in plant and equipment takes into account that the Commission did not purchase any new plant and equipment due to the reduction in the Departmental Capital Budget (DCB).

The variance in suppliers, other payables and employee provisions was due to a timing issue.

The variance in retained surplus between budget and actual is due to a provision for the proposed new Enterprise Agreement being made in 2016 but not being approved until October 2017. In addition the retained surplus includes a provision for long service leave.



## AUSTRALIAN LAW REFORM COMMISSION

### Statement of Changes in Equity for the period ended 30 June 2017

Notes	2017 \$	2016 \$	Original Budget \$
<b>CONTRIBUTED EQUITY</b>			
<b>Opening balance</b>			
Balance carried forward from previous period	255,000	239,000	255,000
<b>Adjusted opening balance</b>	<b>255,000</b>	<b>239,000</b>	<b>255,000</b>
<b>Transactions with owners</b>			
<b>Contributions by owners</b>			
Departmental capital budget	16,000	16,000	16,000
<b>Total transactions with owners</b>	<b>16,000</b>	<b>16,000</b>	<b>16,000</b>
<b>Closing balance as at 30 June</b>	<b>271,000</b>	<b>255,000</b>	<b>271,000</b>
<b>RETAINED EARNINGS</b>			
<b>Opening balance</b>			
Balance carried forward from previous period	301,584	247,512	254,000
<b>Adjusted opening balance</b>	<b>301,584</b>	<b>247,512</b>	<b>254,000</b>
<b>Comprehensive income</b>			
Surplus/(Deficit) for the period	39,079	54,072	(48,000)
<b>Total comprehensive income</b>	<b>39,079</b>	<b>54,072</b>	<b>(48,000)</b>
<b>Closing balance as at 30 June</b>	<b>340,663</b>	<b>301,584</b>	<b>206,000</b>
<b>ASSET REVALUATION RESERVE</b>			
<b>Opening balance</b>			
Balance carried forward from previous period	135,058	126,998	127,000
<b>Adjusted opening balance</b>	<b>135,058</b>	<b>126,998</b>	<b>127,000</b>
<b>Comprehensive income</b>			
Other comprehensive income	-	8,060	-
<b>Total comprehensive income</b>	<b>-</b>	<b>8,060</b>	<b>-</b>
<b>Closing balance as at 30 June</b>	<b>135,058</b>	<b>135,058</b>	<b>127,000</b>
<b>TOTAL EQUITY</b>			
<b>Opening balance</b>			
Balance carried forward from previous period	691,642	613,510	636,000
<b>Adjusted opening balance</b>	<b>691,642</b>	<b>613,510</b>	<b>636,000</b>
<b>Comprehensive income</b>			
Surplus/(Deficit) for the period	39,079	54,072	(48,000)
Other comprehensive income	-	8,060	-
<b>Total comprehensive income</b>	<b>39,079</b>	<b>62,132</b>	<b>(48,000)</b>
<b>Transactions with owners</b>			
<b>Contributions by owners</b>			
Departmental capital budget	16,000	16,000	16,000
<b>Total transactions with owners</b>	<b>16,000</b>	<b>16,000</b>	<b>16,000</b>
<b>Closing balance as at 30 June</b>	<b>746,721</b>	<b>691,642</b>	<b>604,000</b>

The above statement should be read in conjunction with the accompanying notes.

## AUSTRALIAN LAW REFORM COMMISSION

### Statement of Changes in Equity (cont'd)

#### **Accounting Policy**

##### Equity Injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

#### **Budget Variances Commentary**

##### **Statement of Changes in Equity**

The variance in the statement of changes in equity between budget and actual, greater than 10%, is due to the following:

The variance in total equity between budget and actual is due to a provision for the proposed new Enterprise Agreement being made in 2016 but not being approved until October 2017. In addition, the retained surplus includes a provision for long service leave.

**AUSTRALIAN LAW REFORM COMMISSION**

**Cash Flow Statement**

*for the period ended 30 June 2017*

	2017	2016	Budget
Notes	\$	\$	\$
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations	2,751,000	2,658,000	2,751,000
Sale of goods and rendering of services	2,515	4,388	5,000
Net GST received	70,104	64,703	-
Other	5,560	-	-
<b>Total cash received</b>	<b>2,829,179</b>	<b>2,727,091</b>	<b>2,756,000</b>
<b>Cash used</b>			
Employees	2,003,046	2,003,567	2,078,000
Suppliers	797,934	639,409	678,000
<b>Total cash used</b>	<b>2,800,980</b>	<b>2,642,976</b>	<b>2,756,000</b>
<b>Net cash from/(used by) operating activities</b>	<b>28,199</b>	<b>84,115</b>	<b>-</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of property, plant and equipment	-	-	16,000
<b>Total cash used</b>	<b>-</b>	<b>-</b>	<b>16,000</b>
<b>Net cash from/(used by) investing activities</b>	<b>-</b>	<b>-</b>	<b>(16,000)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Contributed equity	16,000	16,000	16,000
<b>Total cash received</b>	<b>16,000</b>	<b>16,000</b>	<b>16,000</b>
<b>Net cash from financing activities</b>	<b>16,000</b>	<b>16,000</b>	<b>16,000</b>
<b>Net increase/(decrease) in cash held</b>	<b>44,199</b>	<b>100,115</b>	<b>-</b>
Cash and cash equivalents at the beginning of the reporting period	1,287,812	1,187,697	1,188,000
<b>Cash and cash equivalents at the end of the reporting period</b> 2.1A	<b>1,332,011</b>	<b>1,287,812</b>	<b>1,188,000</b>

The above statement should be read in conjunction with the accompanying notes.

**Budget Variances Commentary**

**Cash Flow Statement for not-for-profit Reporting Entities**

The variance in net GST received from the budgeted amount was due to the net outcome from the recovery of GST on supplier payments and GST collected on invoices raised.

The variance in the Commission's purchase of plant and equipment reflects the savings made in response to the Mid-Year Economic Fiscal Outlook (MYEFO), Attorney-General's one-off efficiency savings to specific agencies capital measure.

## AUSTRALIAN LAW REFORM COMMISSION

### Overview

#### Objectives of the Australian Law Reform Commission

The Australian Law Reform Commission (the Commission) is an Australian Government controlled entity. It is a not-for-profit entity. The objective of the Commission is to report to the Attorney-General on the results of any review for the purposes of developing and reforming the law.

The Commission is structured to meet one outcome: informed government decisions about the development, reform and harmonisation of Australian laws and related processes through research, analysis, reports and community consultation and education.

The continued existence of the Commission in its present form and with its present programs is dependent on Government policy and on continuing funding by Parliament for the Commission's administration and programs.

Commission activities contributing towards this outcome are classified as Departmental Activities. Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by the Commission in its own right.

Section 45 of the *Australian Law Reform Commission Act 1996* (the ALRC Act), requires that money appropriated by the Parliament be transferred to the Law Reform Special Account (refer to note 3.2).

#### The Basis of Preparation

The financial statements are general purpose financial statements and are required by:

section 42 of the *Public Governance, Performance and Accountability Act 2013*.

The financial statements have been prepared in accordance with:

- a) *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR) for reporting periods ending on or after 1 July 2016; and
- b) Australian Accounting Standards and Interpretations – Reduced Disclosure Requirements issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars.

#### New Accounting Standards

All new, revised amending standards and interpretations that were issued prior to the sign-off date and are applicable to the current reporting period did not have a material effect on the Commission's financial statements.

Accounting Standard	Summary of changes	Effective date
AASB 124 Related Party Disclosures	The standard applies to not-for-profit public sector entities for 2016–17. This will require the disclosure of remuneration for key management personnel and the disclosure of transactions with related parties.	1 July 2016

## AUSTRALIAN LAW REFORM COMMISSION

Overview (cont'd)

### **Taxation**

The Commission is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

### **Events After the Reporting Period**

There have been no subsequent events that have the potential to significantly affect the ongoing structure and the financial activities of the Commission.

**AUSTRALIAN LAW REFORM COMMISSION**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017**

**Financial Performance**

This section analyses the financial performance of Australian Law Reform Commission for the year ended 30 June 2017.

**1.1 Expenses**

	2017	2016
	\$	\$
<b>1.1A: Employee Benefits</b>		
Wages and salaries	1,571,487	1,540,389
Superannuation		
Defined contribution plans	77,061	118,554
Defined benefit plans	194,915	145,955
Leave and other entitlements	188,210	185,467
<b>Total employee benefits</b>	<b>2,031,673</b>	<b>1,990,365</b>

**Accounting Policy**

Accounting policies for employee related expenses is contained in the People and Relationships section.

**1.1B: Suppliers**

**Goods and services supplied or rendered**

Committees	104,362	5,068
Library	27,943	35,823
Professional services	64,441	63,035
Printing and office requisites	14,137	32,261
Freight and removals	374	1,874
Telephone and postage	17,641	15,461
Incidentals	9,488	6,155
Minor assets	9,343	3,481
Staff training	7,397	9,129
Maintenance	7,572	7,662
Promotional activities	2,640	33,722
Advertising	173	751
Travel	71,666	39,078
IT services	17,372	19,067
<b>Total goods and services supplied or rendered</b>	<b>354,549</b>	<b>272,567</b>

Goods supplied	323,549	243,567
Services rendered	31,000	29,000
<b>Total goods and services supplied or rendered</b>	<b>354,549</b>	<b>272,567</b>

**Other suppliers**

Operating lease rentals	325,009	320,079
Workers compensation expenses	9,335	9,708
<b>Total other suppliers</b>	<b>334,344</b>	<b>329,787</b>
<b>Total suppliers</b>	<b>688,893</b>	<b>602,354</b>

**Leasing commitments**

The Commission's lease payments are subject to an annual increase of approximately 4% in accordance with upwards movements in the Consumer Price Index. The commitments are GST inclusive where relevant. Operating lease included is effectively non-cancellable.

**Commitments for minimum lease payments in relation to non-cancellable**

**operating leases are payable as follows:**

Within 1 year	434,455	419,291
Between 1 to 5 years	109,829	546,298
<b>Total operating lease commitments</b>	<b>544,284</b>	<b>965,589</b>

AUSTRALIAN LAW REFORM COMMISSION  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017

**1.1 Expenses (cont'd)**

**Accounting Policy**

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

**AUSTRALIAN LAW REFORM COMMISSION**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017**

**1.2 Own-Source Revenue and Gains**

	2017	2016
	\$	\$
<b>Own-Source Revenue</b>		
<b>1.2A: Sale of Goods and Rendering of Services</b>		
Sale of goods and rendering of services	2,515	4,387
<b>Total sale of goods and rendering of services</b>	<b>2,515</b>	<b>4,387</b>

**Accounting Policy**

Revenue from the sale of goods and rendering of services is recognised when the goods and services have been provided.

**1.2B: Other Revenue**

Resources received free of charge		
Remuneration of auditors	31,000	29,000
<b>Total other revenue</b>	<b>31,000</b>	<b>29,000</b>

**Accounting Policy**

Resources Received Free of Charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

**1.2C: Other Gains**

Overpayment in 2016 relating to publishing costs	5,560	-
<b>Total other gains</b>	<b>5,560</b>	-

**1.2D: Other Revenue from Government**

Appropriations		
Departmental appropriations	2,751,000	2,658,000
<b>Total revenue from Government</b>	<b>2,751,000</b>	<b>2,658,000</b>

**Accounting Policy**

Revenue from Government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the entity gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.



**AUSTRALIAN LAW REFORM COMMISSION**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017**

## Financial Position

This section analyses the Australian Law Reform Commission's assets used to conduct its operations and the operating liabilities incurred as a result. Employee related information is disclosed in the People and Relationships section.

### 2.1 Financial Assets

	<b>2017</b>	<b>2016</b>
	<b>\$</b>	<b>\$</b>
<b>2.1A: Cash and Cash Equivalents</b>		
Cash in special accounts	1,315,987	1,265,653
Cash on hand or on deposit	16,024	22,159
<b>Total cash and cash equivalents</b>	<b>1,332,011</b>	<b>1,287,812</b>
<b>2.1B: Trade and Other Receivables</b>		
<b>Goods and services receivables</b>		
Goods and services	348	6,559
<b>Total goods and services receivables</b>	<b>348</b>	<b>6,559</b>
<b>Other receivables</b>		
Statutory receivables	6,571	2,663
<b>Total other receivables</b>	<b>6,571</b>	<b>2,663</b>
<b>Total trade and other receivables (gross)</b>	<b>6,919</b>	<b>9,222</b>
<b>Total trade and other receivables (net)</b>	<b>6,919</b>	<b>9,222</b>

#### Accounting Policy

##### Receivables

Trade and other receivables that have fixed or determinable payments and that are not quoted in an active market are classified as receivables. Receivables are measured at amortised cost using the effective interest method less impairment. Trade and other receivables are assessed for impairment at the end of each reporting period. At year end none are overdue. Credit terms for goods and services were within 30 days (2016: 30 days).

**AUSTRALIAN LAW REFORM COMMISSION**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017**

**2.2 Non-Financial Assets**

**2.2A: Reconciliation of the Opening and Closing Balances of Plant and Equipment**

	Plant and equipment \$	Total \$
<b>As at 1 July 2016</b>		
Gross book value	103,938	<b>103,938</b>
Accumulated depreciation	(38,459)	<b>(38,459)</b>
<b>Total as at 1 July 2016</b>	<b>65,479</b>	<b>65,479</b>
Additions		
Purchase	-	-
Depreciation and amortisation	(30,430)	<b>(30,430)</b>
<b>Total as at 30 June 2017</b>	<b>35,049</b>	<b>35,049</b>
<b>Total as at 30 June 2017 represented by</b>		
Gross book value	103,938	<b>103,938</b>
Accumulated depreciation, amortisation and impairment	(68,889)	<b>(68,889)</b>
<b>Total as at 30 June 2017</b>	<b>35,049</b>	<b>35,049</b>

Plant and equipment are not expected to be disposed of within the next 12 months.

**Revaluations of non-financial assets**

All revaluations were conducted in accordance with the revaluation policy stated below. On 30 June 2016, an independent valuer conducted the revaluation.

No indicators of impairment were found for plant and equipment.

**AUSTRALIAN LAW REFORM COMMISSION**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017**

**2.2 Non-Financial Assets (cont'd)**

**Accounting Policy**

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor's accounts immediately prior to the restructuring.

Asset Recognition Threshold

Purchases of plant and equipment are recognised initially at cost in the statement of financial position, except for purchases costing less than \$1,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

Revaluations

Following initial recognition at cost, plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depended upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is restated proportionately with the change in the gross carrying amount of the asset so that the carrying amount of the asset after revaluation equals its revalued amount.

Depreciation

Depreciable plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the entity using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying at present are 3–10 years.

AUSTRALIAN LAW REFORM COMMISSION  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017

**2.2 Non-Financial Assets (cont'd)**

	2017	2016
	\$	\$
<hr/>		
<b><u>2.2B: Other Non-Financial Assets</u></b>		
Prepayments	34,189	15,310
<b>Total other non-financial assets</b>	<u>34,189</u>	<u>15,310</u>

No indicators of impairment were found for other non-financial assets.

**AUSTRALIAN LAW REFORM COMMISSION**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017**

**2.3 Payables**

	2017	2016
	\$	\$

**2.3A: Suppliers**

Trade creditors and accruals - not more than 12 months	17,554	29,674
<b>Total suppliers</b>	<b>17,554</b>	<b>29,674</b>

Settlement was usually made within 30 days.

**2.3B Other Payables**

Salaries and wages	58,701	53,930
Lease incentive	66,608	107,848
<b>Total other payables</b>	<b>125,309</b>	<b>161,778</b>

**Other payables to be settled**

No more than 12 months	81,328	63,355
More than 12 months	43,981	98,423
<b>Total other payables</b>	<b>125,309</b>	<b>161,778</b>

**Accounting Policy**

Lease incentives - refer to Note 1.1B.

**AUSTRALIAN LAW REFORM COMMISSION**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017**

**Funding**

This section identifies the Australian Law Reform Commission's funding structure.

**3.1 Appropriations**

**3.1A: Annual Appropriations ('Recoverable GST exclusive')**

**Annual Appropriations for 2017**

	Annual appropriation <sup>1</sup> \$	Adjustments to appropriation <sup>2</sup> \$	Total appropriation \$	Appropriation applied in 2017 (current and prior years) \$	Variance <sup>3</sup> \$
<b>Departmental</b>					
Ordinary annual services	2,751,000	2,515	2,753,515	2,753,515	-
Capital Budget <sup>4</sup>	16,000	-	16,000	16,000	-
<b>Total departmental</b>	<b>2,767,000</b>	<b>2,515</b>	<b>2,769,515</b>	<b>2,769,515</b>	<b>-</b>

1. In 2016–17 no amount of appropriation has been withheld (Section 51 of the PGPA Act) and quarantined for administrative purposes.
2. An amount of \$2,515 was received from the PGPA Act Section 74 receipts.
3. In 2016–17, there was no variance.
4. Departmental Capital Budgets are appropriated through Appropriation Acts (No.1). They form part of ordinary annual services, and are not separately identified in the Appropriation Act.

**Annual Appropriations for 2016**

	Annual appropriation <sup>1</sup> \$	Adjustments to appropriation <sup>2</sup> \$	Total appropriation \$	Appropriation applied in 2016 (current and prior years) \$	Variance <sup>3</sup> \$
<b>Departmental</b>					
Ordinary annual services	2,786,000	4,387	2,790,387	2,662,387	128,000
Capital Budget <sup>4</sup>	56,000	-	56,000	16,000	40,000
<b>Total departmental</b>	<b>2,842,000</b>	<b>4,387</b>	<b>2,846,387</b>	<b>2,678,387</b>	<b>168,000</b>

1. In 2015–16 an amount of \$168,000 appropriation was withheld (Section 51 of the PGPA Act) and quarantined for administrative purposes.
2. An amount of \$4,387, was received from the PGPA Act Section 74 receipts.
3. In 2015–16, there was a variance of \$168,000.
4. Departmental Capital Budgets are appropriated through Appropriation Acts (No.1). They form part of ordinary annual services, and are not separately identified in the Appropriation Act.

**3.1B: Unspent Annual Appropriations ('Recoverable GST exclusive')**

	2017 \$	2016 \$
<b>Departmental</b>		
Appropriation Act (No. 1) 2016–17	-	168,000
<b>Total departmental</b>	<b>-</b>	<b>168,000</b>

**AUSTRALIAN LAW REFORM COMMISSION**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017**

**3.2 Special Accounts**

Law Reform Special Account (Departmental)		
	2017	2016
	\$	\$
<b>Balance brought forward from previous period</b>	<b>1,287,812</b>	1,187,697
<b>Increases</b>	<b>2,775,075</b>	2,678,388
<b>Total increases</b>	<b>4,062,887</b>	3,866,085
<b>Available for payments</b>	<b>4,062,887</b>	3,866,085
<b>Decreases</b>		
Departmental	2,730,876	2,578,273
<b>Total departmental</b>	<b>2,730,876</b>	2,578,273
<b>Total decreases</b>	<b>2,730,876</b>	2,578,273
<b>Total balance carried to the next period</b>	<b>1,332,011</b>	1,287,812
<b>Balance represented by:</b>		
Cash held in the Official Public Account	1,332,011	1,287,812
<b>Total balance carried to the next period</b>	<b>1,332,011</b>	1,287,812

1. Appropriation: *Public Governance, Performance and Accountability Act 2013* section 80; Establishing Instrument: *Australian Law Reform Commission Act 1996*, section 45.

2. The Commission has a Law Reform Special Account. This account was established under section 80 of the *Public Governance, Performance and Accountability Act 2013*. For the year ended 30 June 2017, the account had a \$1.332m balance and there were transactions debited and credited to it during the current reporting period.

3. The purpose of the Special Account is:

- (a) to pay the costs, expenses and other obligations incurred by the Commonwealth in the performance of the Commission's functions;
- (b) to pay any remuneration and allowances payable to a person under the *Australian Law Reform Commission Act 1996*;
- (c) to pay the expenses of administering the Account;
- (d) to pay any amount that is required or permitted to be repaid; and
- (e) to reduce the balance of the Account (and, therefore, the available appropriation for the Account) without making a real or notional payment.

**AUSTRALIAN LAW REFORM COMMISSION**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017**

**3.3 Net Cash Appropriation Arrangements**

	2017	2016
	\$	\$
<b>Total comprehensive income less depreciation/amortisation expenses previously funded through revenue appropriations</b>	<b>69,511</b>	106,728
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	<u>(30,430)</u>	<u>(44,596)</u>
<b>Total comprehensive income - as per the Statement of Comprehensive Income</b>	<b><u>39,081</u></b>	<b><u>62,132</u></b>

1. From 2010–11, the Government introduced net cash appropriation arrangements, where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.



AUSTRALIAN LAW REFORM COMMISSION

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017

**People and Relationships**

This section describes a range of employment and post employment benefits provided to our people and our relationships with other key people.

**4.1 Employee Provisions**

	2017	2016
	\$	\$
<b>4.1A: Employee Provisions</b>		
Leave	<b>518,584</b>	494,729
<b>Total employee provisions</b>	<b>518,584</b>	494,729
<b>Employee provisions expected to be settled</b>		
No more than 12 months	<b>148,003</b>	114,912
More than 12 months	<b>370,581</b>	379,617
<b>Total employee provisions</b>	<b>518,584</b>	494,529

**Accounting policy**

Liabilities for 'short-term' employee benefits and termination benefits expected within twelve months of the end of reporting period are measured at their nominal amounts.

Leave

The liability for employee benefits includes provision for annual leave and long service leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the Commission's employer superannuation contribution rates, to the extent that the leave is likely to be taken during service rather than paid out on termination.

The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation

Provision is made for separation and redundancy benefit payments. The Commission recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

The Commission's staff are members of the Public Sector Superannuation Scheme (PSS), or the PSS accumulation plan (PSSap), or other superannuation funds held outside the Australian Government.

The PSS is a defined benefit scheme for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedules and notes.

The Commission makes employer contributions to the employees' defined benefit superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. The Commission accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June 2017 represents outstanding contributions for the final fortnight of the year.

**Accounting Judgements and Estimates**

The employee benefits provisions have been estimated in accordance with AASB 119 Employee Benefits and reflect the expected value of those benefits.

**AUSTRALIAN LAW REFORM COMMISSION**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017**

**4.2 Key Management Personnel Remuneration**

Key Management Personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the Commission, directly or indirectly, including any director (whether executive or otherwise) of the Commission. The Commission has determined the Key Management Personnel to be Executive Officers, including the President, Commissioners and Executive Director/Chief Financial Officer. Key Management Personnel remuneration is reported in the table below.

	2017	2016
	\$	\$
Short-term employee benefits	579,694	608,695
Post-employment benefits	93,619	105,853
Other long-term employee benefits	57,420	62,267
<b>Total Key Management Personnel remuneration expenses<sup>1</sup></b>	<b>730,733</b>	<b>776,815</b>

The total number of Key Management Personnel that are included in the above table are 2 of Key Management Personnel (2016: 3 of Key Management Personnel).

1. The above Key Management Personnel remuneration excludes the remuneration and other benefits of one Commissioner. This Commissioner's remuneration and other benefits are set by the Remuneration Tribunal and are paid as a fee-for-service contract arrangement where the Commission is not the direct employer.

**4.3 Related Party Disclosures**

**Related party relationships:**

The Commission is an Australian Government controlled entity. Related parties to this Commission are Key Management Personnel including the Portfolio Minister, President, Executive, and other Australian Government entities.

**Transactions with related parties:**

The Commission has no transactions with related parties to report.

AUSTRALIAN LAW REFORM COMMISSION  
 NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017

## Managing Uncertainties

This section analyses how the Australian Law Reform Commission manages financial risks within its operating environment.

### 5.1 Financial Instruments

	2017	2016
	\$	\$
<b>5.1A: Categories of Financial Instruments</b>		
<b>Financial Assets</b>		
<b>Loans and receivables</b>		
Cash	1,332,011	1,287,812
Trade and other receivables	348	6,559
<b>Total loans and receivables</b>	<b>1,332,359</b>	<b>1,294,371</b>
<b>Total financial assets</b>	<b>1,332,359</b>	<b>1,294,371</b>
<b>Financial Liabilities</b>		
<b>Financial liabilities measured at amortised cost</b>		
Trade creditors	17,554	29,674
Other payables	125,309	161,778
<b>Total financial liabilities measured at amortised cost</b>	<b>142,863</b>	<b>191,452</b>
<b>Total financial liabilities</b>	<b>142,863</b>	<b>191,452</b>

**AUSTRALIAN LAW REFORM COMMISSION  
NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2017**

**5.2 Fair Value Measurement**

**Accounting Policy**

The Commission engaged the service of the Australian Valuation Solutions (AVS) to conduct an external valuation of all non-financial assets at 30 June 2016 and has relied upon those outcomes to establish carrying amounts. An annual assessment is undertaken to determine whether the carrying amount of the assets is materially different from the fair value.

Comprehensive valuations are carried out at least once every three years. AVS has provided written assurance to the Commission that the models developed are in compliance with AASB 13.

The method utilised to determine and substantiate the unobservable inputs are derived and evaluated as follows:

Physical Depreciation and Obsolescence - Assets that do not transact with enough frequency or transparency to develop objective opinions of value from observable market evidence have been measured utilising the Depreciated Replacement Cost approach. Under the Depreciated Replacement Cost approach the estimated cost to replace the asset is calculated and then adjusted to take into account physical depreciation and obsolescence. Physical depreciation and obsolescence has been determined based on the professional judgement regarding physical, economic and external obsolescence factors relevant to the asset under consideration.

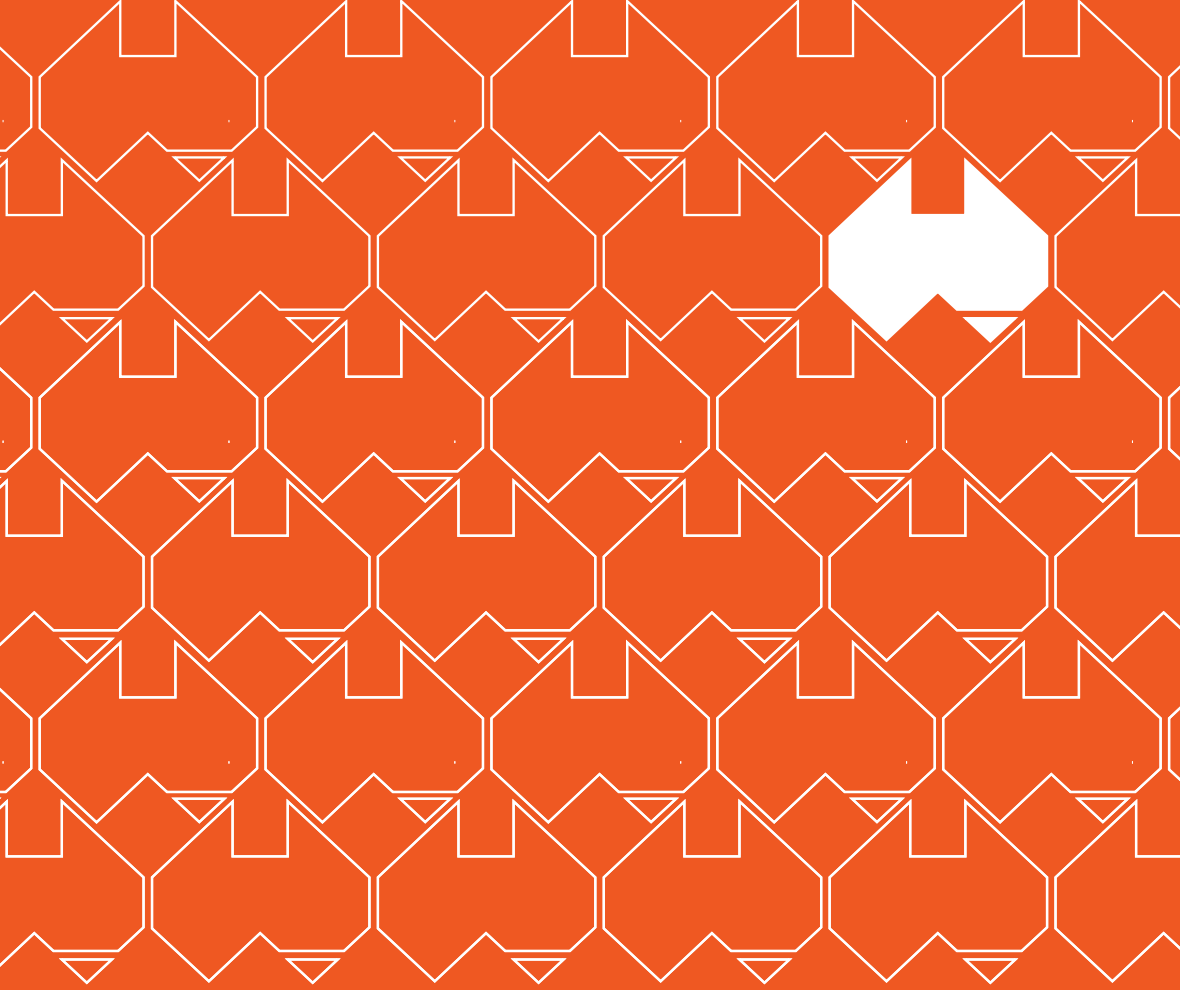
**5.2A Fair Value Measurement**

	Fair value measurements at the end of the reporting period	
	2017	2016
	\$	\$
<b>Non-financial assets<sup>2</sup></b>		
Plant and equipment <sup>1</sup>	6,049	34,100
<b>Non-financial assets</b>		
Plant and equipment <sup>1</sup>	<b>29,000</b>	29,000
<b>Total</b>	<b>35,049</b>	63,100

1. No non-financial assets were measured at fair value on a non-recurring basis as at 30 June 2017 (2016: Nil).
2. The Commission's assets are held for operational purposes and not held for the purpose of deriving a profit. The current use of all non-financial assets is considered their highest and best use.
3. There were no transfers between levels during the year.
4. The remaining assets and liabilities reported by the Commission are not measured at fair value in the Statement of Financial Position.
5. In 2017, software had depreciated so that the fair value is the same as in the plant and equipment (note 2.2A). The total amount of non-financial assets at fair value in 2016 is different from plant and equipment (note 2.2A) because software was not included in the valuation.

# 6

## APPENDICES



# ▶ **APPENDIX A:** CORPORATE PLAN 2016–20

## **PRESIDENT'S FOREWORD**

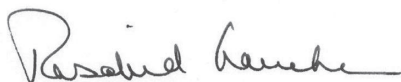
On behalf of the Commission, I present the Australian Law Reform Commission's Corporate Plan for 2016–20. The Plan has been prepared in accordance with the requirements of the *Australian Law Reform Commission Act 1996* (Cth) (ALRC Act) under which it is constituted and the *Public Governance Performance and Accountability Act 2013* (Cth) (PGPA Act) under which it is a Commonwealth non-corporate entity.

The Australian Law Reform Commission (ALRC) is an independent statutory agency that is part of the Attorney-General's portfolio. The ALRC supports the Attorney-General and the Australian Government in the maintenance and improvement of Australia's system of law and justice, by contributing to the process of law reform.

Under the ALRC Act, the ALRC's function is to review Commonwealth laws and legal processes for the purpose of systematically developing and reforming the law. In pursuing this function, the ALRC contributes to the Government's objective of achieving an equitable and accessible system of federal justice and the harmonisation of Australia's laws and practices. Through the improvement of Australia's law and justice framework, the ALRC contributes to the Attorney-General's outcome—a just and secure society.

The ALRC's Corporate Plan is designed to inform the Attorney-General, Government, stakeholders and the community of the ALRC's strategies and programs that will allow it to deliver outcomes that meet their expectations and those of the Australian community.

Signed



**Professor Rosalind Croucher AM**

Dated 14 June 2016

## INTRODUCTION

The ALRC's Corporate Plan has been prepared having regard to the requirements of the *Australian Law Reform Commission Act 1996* (Cth) and s 35(1)(b) of the *Public Governance Performance and Accountability Act 2013* (Cth) (PGPA Act).

The Corporate Plan is prepared for the 2016–17 reporting year.

The Corporate Plan covers the period from 2016–2020.

## PURPOSE

### Our vision

A fair, equitable and accessible system of federal justice that contributes to a just and secure society.

### Our Outcome

The intended impact of the ALRC's activities are:

Informed government decisions about the development, reform and harmonisation of Australian laws and related processes through research, analysis, reports and community consultation and education.

### Our Function

The ALRC is required to review Commonwealth laws relevant to those matters referred by the Attorney-General for the purposes of systematically developing and reforming the law particularly by:

- ▶ bringing the law into line with current conditions and ensuring that it meets current needs;
- ▶ removing defects in the law;
- ▶ simplifying the law;
- ▶ adopting new or more effective methods for administering the law and dispensing justice; and
- ▶ providing improved access to justice.

With reference to those matters referred to it, the ALRC is to consider proposals for making or consolidating Commonwealth laws, and must consider proposals for:

- ▶ the repeal of obsolete or unnecessary laws;
- ▶ uniformity between state and territory laws; and
- ▶ complementary Commonwealth, state and territory laws.

In performing its functions the ALRC is required by s 24 of the ALRC Act, to ensure that the laws, proposals and recommendations it reviews, considers or makes:

- ▶ do not trespass unduly on personal rights and liberties or make the rights and liberties of citizens unduly dependent on administrative, rather than judicial, decisions; and
- ▶ are, as far as practicable, consistent with Australia's international obligations that are relevant to the matter.

The ALRC, when formulating recommendations, must have regard to the effect that the recommendations may have on:

- ▶ the costs of getting access to, and dispensing, justice; and
- ▶ persons and businesses who would be affected by the recommendations (including the economic effect, for example).

The ALRC must report to the Attorney-General on the results of any review or consideration it carries out and to include in the report any recommendations it wants to make.

## ENVIRONMENT

The ALRC would expect to work on two inquiries at any one time. However, the ALRC is not responsible for defining its work program, nor for the timing of its inquiries, but is reliant on the law reform objectives of the government, and the referrals made to it by the Commonwealth Attorney-General.

In this environment the extent to which the ALRC can deliver on its objective and meet its performance targets is influenced from year to year by the government's law reform agenda, the number of inquiries referred to the ALRC, the subject matter and scope of any particular inquiry, the prescribed timeframe and the resources made available to the ALRC to undertake the work.

In light of this, the ALRC will continue to work closely with the Attorney-General's Department to ensure appropriate lead time for planning and managing resources is afforded when new inquiries are referred to the ALRC.

This also means that the Corporate Plan will be updated annually to reflect the work referred to the ALRC during each period.

## CAPABILITY

### Conducting Inquiries

The ALRC has one program to achieve its outcome—conducting inquiries into aspects of Australian law and related processes for the purpose of law reform. It is through the inquiry process that the ALRC is able to undertake the research and analysis that underpin the recommendations for law reform and provide the basis for informed government decisions.

In conducting its inquiries, the ALRC will:

- ▶ comprehensively research and analyse the legal policy issues raised during the course of this research;
- ▶ undertake community consultation nationally with stakeholders and experts relevant to each area of law under review and report on the consultation process;
- ▶ constitute an expert Advisory Committee for each inquiry, as required;
- ▶ produce consultation documents, as appropriate, to each inquiry;

- ▶ call for submissions that will, along with its own research and findings, inform the formulation of recommendations contained in a Final Report;
- ▶ provide web-based consultation and communication strategies to effectively and efficiently broaden access to the ALRC's activities by the community;
- ▶ produce a Final Report containing recommendations for law reform for each inquiry for consideration by the parliament;
- ▶ present at public conferences, seminars and Parliamentary inquiries, ensuring that the work of the ALRC is publicly debated and discussed and contributes to the community's knowledge about the Government's law reform agenda; and
- ▶ track and report on implementation of its recommendations.

The ALRC is committed to ensuring it consults widely and will continue to develop online resources and communication strategies to maximise access, respecting the diversity of the Australian community.

As required by its Act, the ALRC also will have regard to relevant international obligations; the potential impact of its recommendations on the costs of getting access to and dispensing justice; and personal rights and liberties, ensuring that citizens are not unduly dependent on administrative rather than judicial decisions.

Staff of the ALRC will speak at conferences, seminars and meetings of professional and community groups about the work of the ALRC and law reform processes generally and will engage in other consultative and educational activities relating to the ALRC's current and past inquiries.

As the ALRC's recommendations must represent international best practice, the ALRC will also engage with other law reform and expert bodies internationally to share information and ideas and to benchmark ALRC practices and procedures.



**TABLE 8**

YEAR	INQUIRY	CONSULTATION PAPERS	CONSULTATIONS	REPORTS
2016–17	Inquiry 1 Protecting the rights of older Australians from abuse	Discussion Paper	40	Final Report
	Inquiry 2	Issues Paper Discussion Paper	75	
2017–18	Inquiry 2 (cont)			Final Report
	Inquiry 1	Issues Paper Discussion Paper	75	
2018–19	Inquiry 1 (cont)			Final Report
	Inquiry 2	Issues Paper Discussion Paper	75	
2019–20	Inquiry 1	Issues Paper Discussion Paper	75	
	Inquiry 2			Final Report

Where the ALRC has made relevant recommendations or has acquired special expertise or experience, it will also make submissions to inquiries undertaken by other bodies, especially Parliamentary Committees, on the law reform issues raised in those inquiries.

**PERFORMANCE**

The ALRC will measure the success of its programme in delivering its objective through the following key performance indicators:

- ▶ the level of implementation of ALRC reports by government and other bodies, either substantially or partially, over time;

- ▶ the number of citations or references to ALRC reports and recommendations in Parliamentary debates, in court citations and decisions, and in academic and other publications;
- ▶ the number of submissions received for each inquiry;
- ▶ the number of visitors to the ALRC website;
- ▶ the number of presentations and speaking engagements; and
- ▶ the number of media mentions of ALRC inquiry work.

**TABLE 9**

KPI MEASURE	2016–17	2017–18 TARGET	2018–19 TARGET	2019–20 TARGET
Implementation of reports	85%	85%	85%	85%
Citations or references	50	50	50	50
Submissions received	150	150	150	150
Visitors to website	>250,000	>250,000	>250,000	>250,000
Presentations and speaking engagements	25	25	25	25
Media mentions	250	250	250	250

Implementation rates are an indicator of the effectiveness of the ALRC in achieving its objective as the rate of implementation of ALRC recommendations provides evidence of the ALRC’s relative success in facilitating informed decision-making by Government that leads to development, reform and harmonisation of Australian laws and related processes. The ALRC recognises, however, that implementation is not a matter within its own control but is dependent on government responses.

Using the number of citations of ALRC reports provides an indication of the success of the ALRC’s strategies in achieving legal and academic expert engagement and of the relevance of our work to legal proceedings and judgements.

Using the number of submissions received is one indicator of the breadth of the evidence base that underpins the ALRC’s recommendations and of community engagement with law reform.

The number of media mentions provides an indicator of community engagement and contributes to the community’s knowledge about the Government’s law reform agenda.

The number of visitors to the ALRC’s website is an indicator of the community’s engagement

with the work (past and present) of the ALRC. This engagement underpins informed government decision-making.

Presenting at public conferences, seminars and Parliamentary inquiries ensures that the work of the ALRC is publicly debated and discussed.

It should be noted that these indicators are also affected, from year to year, by the subject matter of a particular inquiry, the prescribed timeframe and the resources available to the ALRC.

## **RISK OVERSIGHT AND MANAGEMENT**

The ALRC is committed to an active risk management program extending to all aspects of its operations. The PGPA requires that the Accountable Authority for a Commonwealth agency must implement:

- a. an appropriate system of risk oversight and management for the entity; and
- b. an appropriate system of internal control for the entity including by implementing measures directed at ensuring officials of the entity comply with the finance law.

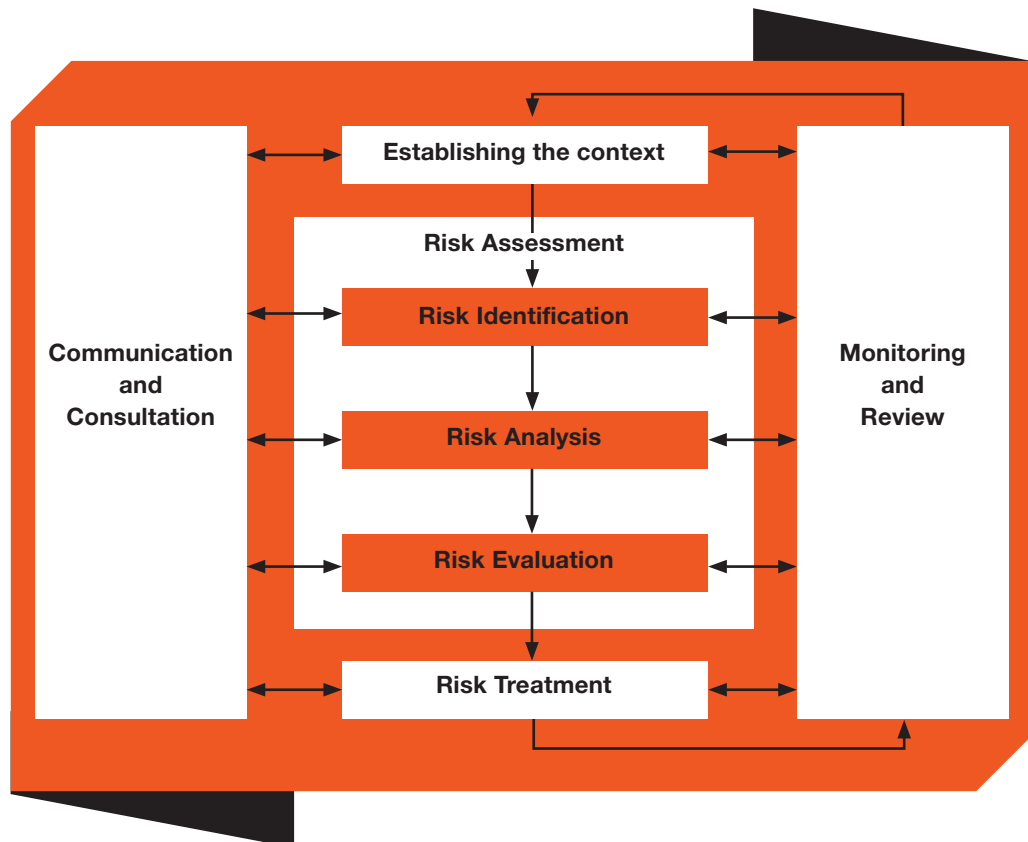
Better practice literature in respect of risk management and internal control for ALRC includes:

- ▶ Enterprise Risk Management—Integrated Framework (COSO<sup>1</sup>);
- ▶ Risk Management Standard—AS/NZS/ISO 31000 (2009);
- ▶ Commonwealth Risk Management Policy (2015);
- ▶ ANAO Better Practice Guide—Risk Management (2008—tools and templates soon to be updated);
- ▶ Various Department of Finance, ANAO, AGD, Treasury, SafeWork Australia guidance on internal control in organisational areas such as finance, fraud control, assets, procurement & contracting, communications, Work, Health & Safety (WHS) etc.

Better practice in risk management is represented by the Risk Management Standard and Guidelines (ANZ/NZ ISO 31000:2009). Diagram 1 summarises the Risk Management Framework.

<sup>1</sup> Committee of Sponsoring Organizations of the Treadway Commission (2004)

**DIAGRAM 1:** Risk Management Framework



**DIAGRAM 2:** Oversight and reporting



The CEO and Executive Director are responsible for oversight on risk including review of framework, risk review process, records update and reporting to the Audit Committee. Diagram 2 details the Enterprise Risk Management Framework at the ALRC.

Review of the ALRC's key functions and strategic environment has developed three Enterprise Level Strategic Risks facing the agency, as follows:

- ▶ sound governance and resource management;
- ▶ maintenance of relationships with stakeholders;
- ▶ maintenance of a high level of reputational integrity.

The ALRC's Strategic Risk Register identifies a number of existing controls required to reduce and mitigate these risks. This risk register is overseen by the ALRC's Audit Committee and updated annually to ensure that the ALRC's strategies reduce the Commission's exposure to the materialisation of its Enterprise Level Strategic Risks.

The ALRC has in place a Fraud Control Plan that is updated bi-annually and a Fraud Risk Assessment Plan that outlines potential areas of risk and identifies mitigation strategies. The Fraud Risk Assessment Plan is reviewed annually. The ALRC has a Protective Security Policy and Security Plan also reports its compliance annually against the Government's Protective Security mandatory requirements.

# ▶ APPENDIX B:

## ENTITY RESOURCE STATEMENT AND EXPENSES FOR OUTCOMES 2016–17

### ENTITY RESOURCE STATEMENT 2016–17

	ACTUAL AVAILABLE APPROPRIATION FOR 2016–17 \$'000	PAYMENTS MADE 2016–17 \$'000	BALANCE REMAINING 2016–17
	(a)	(b)	(a) – (b)
<b>Special Accounts</b>			
Opening balance	1,288		
Appropriation receipts <sup>1</sup>	2,772		
Other receipts	3		
Payments made		2,731	
<b>Total Special Account</b>	<b>4,063</b>	<b>2,731</b>	<b>1,332</b>
<b>Total net resourcing and payments for ALRC<sup>2</sup></b>	<b>4,063</b>	<b>2,731</b>	

<sup>1</sup> Appropriation Act (No.1) 2016–17, and includes an amount of \$0.016m in 2016–17 for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contributions by owners'.

<sup>2</sup> This may also include prior year departmental appropriations and section 74 Retained Revenue Receipts.

## EXPENSES FOR OUTCOME 1

**OUTCOME 1: INFORMED GOVERNMENT DECISIONS ABOUT THE DEVELOPMENT, REFORM AND HARMONISATION OF AUSTRALIAN LAWS AND RELATED PROCESSES THROUGH RESEARCH, ANALYSIS, REPORTS AND COMMUNITY CONSULTATION AND EDUCATION.**

BUDGET*	ACTUAL EXPENSES	VARIATION
2016–17	2016–17	2016–17
\$'000	\$'000	\$'000
(a)	(b)	(a) – (b)

**Program 1:** Conducting inquiries into aspects of Australian laws and related processes for the purposes of law reform.

Departmental expenses

Departmental appropriation<sup>1</sup>

Special Accounts	2,751	2,681	70
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Expenses not requiring appropriation in the Budget year	76	70	6
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<b>Total for Program 1</b>	<b>2,827</b>	<b>2,751</b>	<b>76</b>
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### Outcome 1 Totals by appropriation type

Departmental expenses

Departmental Appropriation<sup>1</sup>

Special Accounts	2,751	2,681	70
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Expenses not requiring appropriation in the Budget year	76	70	6
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<b>Total expenses for Outcome 1</b>	<b>2,827</b>	<b>2,751</b>	<b>76</b>
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2015–16	2016–17
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<b>Average Staffing Level</b>	13	13
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\* Full year budget, including any subsequent adjustment made to the 2016–17 Budget.

<sup>1</sup> Departmental Appropriation combines Ordinary annual services (Appropriation Act No.1) and Retained Revenue Receipts under section 74 of the PGPA Act 2013.

# ▶ APPENDIX C: INQUIRY REPORT

## INQUIRY INTO PROTECTING THE RIGHTS OF OLDER AUSTRALIANS FROM ABUSE

On 23 February 2016, the Attorney-General, Senator the Hon George Brandis QC, provided Terms of Reference to the ALRC for a review of existing Commonwealth laws and legal frameworks which seek to safeguard and protect older persons from misuse or abuse by formal and informal carers, supporters, representatives and others. The ALRC was asked to look at the regulation of financial institutions; superannuation; social security; living and care arrangements; health; and the interaction and relationship of these laws with state and territory laws. The ALRC was directed to provide its report to the Attorney-General by the end of May 2017. The Terms of Reference for this Inquiry are on the ALRC website.

The Inquiry was lead by ALRC President, Emeritus Professor Rosalind Croucher AM. An Advisory Committee was established and met on 13 May 2016, 14 October 2016 and 7 April 2017. A list of Advisory Committee members is on the ALRC website. The ALRC released an Issues Paper in June 2016 and a Discussion Paper in December 2016. The Report, *Elder Abuse—A National Legal Response* (ALRC Report 131) was tabled on 14 June 2017 and launched in Melbourne by the Attorney-General on 15 June 2017, World Elder Abuse Awareness Day.

During the Inquiry, the ALRC conducted 117 consultations around the country, and received 458 submissions from a wide range of people and organisations, including: individuals in their private capacity; academics; lawyers; law societies and representative groups; community legal centres; advocacy groups; peak bodies;

and state and federal government agencies. Submissions from advocacy groups and community legal centres included many case studies, drawn from their experiences on the frontline, working with people who had been subjected to abuse. Such examples are included as illustrative case studies throughout the Report. As part of the consultation effort the ALRC also produced information on the Inquiry in 20 community languages which was distributed throughout the community through various ethnic media outlets and community organisations.

The depth of engagement reflected in this process of consultation is the hallmark of best practice law reform. The ALRC is indebted to the many individuals who made the dynamics and experiences of elder abuse painfully clear and so powerfully put the need for action.

Elder abuse usually refers to abuse by family, friends, carers and other people where there is a relationship or expectation of trust. Commonly recognised categories of elder abuse include psychological or emotional abuse, financial abuse, physical abuse, neglect, and sexual abuse. The World Health Organization has estimated that the prevalence rate of elder abuse in high- or middle-income countries ranges from 2% to 14%. The 2016 report by the Australian Institute of Family Studies, *Elder Abuse: Understanding Issues, Frameworks and Responses*, commissioned as part of the background to the ALRC inquiry, and drawing upon Queensland elder abuse helpline information, identified financial abuse as accounting for 40% of the most commonly

reported type of abuse in 2014–15; and children in their 50s as the largest group of offenders.

In this Inquiry, the ALRC was asked to focus on Commonwealth laws and legal frameworks that seek to safeguard and protect older persons from misuse or abuse by formal and informal carers, supporters, representatives and others including laws pertaining to banking, superannuation, social security and aged care. The ALRC was also asked to examine the interaction and relationship of Commonwealth laws with state and territory laws including laws in relation to guardianship and administration and enduring powers of attorney and the appointment of enduring guardians. The intersection of state and federal responsibilities makes responding to elder abuse a complex issue—both from the perspective of laws, but also in terms of practical responsibility.

The ALRC has made 43 recommendations aimed at achieving a nationally consistent response to elder abuse. The recommendations in the Report seek to balance two framing principles: dignity and autonomy on the one hand; and protection and safeguarding on the other. Autonomy and safeguarding, however, are not mutually inconsistent, as safeguarding responses also act to support and promote the autonomy of older people. The recommendations embody the ‘three Rs’ of risk, response and redress: reducing risk; ensuring an appropriate response; and providing avenues for redress.

With respect to the specific areas of law identified in the Terms of Reference, the Report begins with a consideration of aged care: a large and growing area of Commonwealth responsibility, and on which there was much attention at the time of writing the Report. The recommendations go to the reportable incidents scheme, employment of care workers and the use of restrictive practices. The emphasis in the recommendations is on recognising risk and *responding* effectively. Further

recommendations focus on advance planning by a person and include the areas of enduring documents, family agreements, superannuation, wills and banking. The remaining set of recommendations is focused on safeguarding against elder abuse in various settings: tribunal appointed guardians and administrators; social security; the National Disability Insurance Scheme; and new legislation in states and territories for safeguarding ‘at-risk’ adults.

The capstone recommendation of the Report is the development of a National Plan to combat elder abuse, to provide the basis for a longer term approach to the protection of older people from abuse. The Plan will provide the opportunity for integrated planning and policy development. The Report suggests a conceptual template for the National Plan and provides a wide range of examples from stakeholders, drawn from over 400 submissions—sharing ideas, illustrations, suggestions and urgings. In a practical sense, much work already undertaken and in train, both at the Commonwealth level and in states and territories, together with recommendations throughout the Report, may be seen to constitute strategies in implementation of a commitment to combat elder abuse.

Ageing eventually comes to all Australians. This Inquiry has acknowledged that, therefore, elder abuse is ‘everybody’s business.’ It is also everybody’s *responsibility*—a responsibility not only to recognise elder abuse but, most importantly, to respond to it effectively. The recommendations in this Report address what legal reform can do to prevent abuse from occurring and to provide clear responses and redress when abuse occurs so that all older people may live dignified and autonomous lives free from the pain and degradation of elder abuse.



## **INQUIRY INTO THE INCARCERATION RATES OF ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES**

In February 2017, the ALRC received the Terms of Reference for an inquiry into the Incarceration Rates of Aboriginal and Torres Strait Islander Peoples. The ALRC has been asked to consider laws and legal frameworks that contribute to the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system and inform decisions to hold or keep them in custody. 'Legal frameworks' encompass police, courts, legal assistance services and prisons. The ALRC has also been asked to consider laws that may contribute to the rate of Aboriginal and Torres Strait Islander peoples' offending, including, but not limited to, laws that regulate the availability of alcohol, driving offences and unpaid fines and differences in application of laws across states and territories along with other access to justice issues. The Terms of Reference for this Inquiry are on the ALRC website. Judge Matthew Myers AM was appointed to lead the Inquiry on leave from the Federal Circuit Court. The ALRC is asked to report to the Attorney-General by 22 December 2017.

The ALRC recognises that the majority of Aboriginal and Torres Strait Islander peoples never commit criminal offences. However, that there is an over-representation of Aboriginal and Torres Strait Islander peoples in the prison system is evidenced in the ABS statistic that, while constituting only 2% of the Australian adult population, Aboriginal and Torres Strait Islander peoples currently represent 27% of the adult prison population and Aboriginal and Torres Strait Islander women constitute 34% of the adult female prison population, making them the fastest growing cohort in the prison system.

The ALRC has been asked to have regard to past reports and inquiries that have highlighted the many social, political and economic factors that contribute to Aboriginal

and Torres Strait Islander imprisonment rates. It is just over 25 years since the release of the landmark report of the Royal Commission into Aboriginal Deaths in Custody in 1991. Since that time the number of Aboriginal and Torres Strait Islander peoples in prison has doubled from 13% of the prison population to 27%. The task for the ALRC is to uncover what law reform can do to redress this situation while recognising that law is only one piece in a much larger historical, social and economic context that contributes to the drivers of incarceration.

Due to the relatively short time-frame for this Inquiry of 11 months, and the fact that the Attorney-General's Department undertook a consultative process on the draft Terms of Reference for the Inquiry that received many submissions from engaged stakeholders, the ALRC decided not to produce an Issues Paper, as is normal ALRC practice. Instead, the ALRC relied on these submissions, and its own research, to identify the issues involved and has undertaken more than 100 consultations around the country to gain an understanding of the multifaceted and intergenerational context of Aboriginal and Torres Strait Islander incarceration. A Discussion Paper outlining our proposals for law reform with a call for submissions will be published in July 2017. An Advisory Committee has been constituted for the period of the Inquiry which met twice during the reporting period: on 20 March 2017 and on 5 June 2017. A list of Advisory Committee members is on the ALRC website.

# ▶ APPENDIX D: IMPLEMENTATION ACTIVITY

The following provides an overview of activity in relation to the implementation of ALRC reports during 2016–17.

An overview of the implementation status of all ALRC reports is available on the ALRC website.

## **FOR YOUR INFORMATION: AUSTRALIAN PRIVACY LAW AND PRACTICE (ALRC REPORT 108, 2008)**

On 13 February 2017, the *Privacy Amendment (Notifiable Data Breaches) Act 2017* (Cth) was enacted. It implements Recommendation 51–1. Entities are required to notify affected individuals and the Office of the Australian Information Commissioner of data breaches likely to result in serious harm.

## **FAMILY VIOLENCE—A NATIONAL LEGAL RESPONSE (ALRC REPORT 114, 2010)**

On 18 August 2016, the first stage of the National Domestic and Family Violence Bench Book was released. The final stage was completed and released in May 2017. This implements Recommendation 31–2 of the Report.

## **COPYRIGHT AND THE DIGITAL ECONOMY (ALRC REPORT 122, 2014)**

On 15 June 2017, the *Copyright Amendment (Disability Access and Other Measures) Act 2017* (Cth) was enacted. It introduced a number of amendments, including the following which are consistent with ALRC recommendations. The Act introduces a fair dealing exception for persons with a disability and others acting on their behalf. The statutory license regime applying to libraries,

archives and key cultural institutions dealing with copyright material, as well as the regime applicable to educational institutions, have been modernised and simplified.

## **EQUALITY, CAPACITY AND DISABILITY IN COMMONWEALTH LAWS (ALRC REPORT 124, 2014)**

In August 2016, the Australian Guardianship and Administration Council published the 3rd edition of the National Standards of Public Guardianship. These standards draw on the national decision-making principles developed by the ALRC.

On 22 February 2017, the *Crimes (Mental Impairment and Unfitness to be Tried) Amendment Act 2016* (Vic) was passed. Consistent with ALRC recommendations relating to reforming the test relating to eligibility to stand trial (Recommendation 7–1). It clarifies the definition of ‘mental impairment’ to ensure it includes mental illness and cognitive impairment.

# ▶ APPENDIX E:

## CITATIONS OF ALRC REPORTS IN COURT DECISIONS

**TABLE 10:** Citations of ALRC reports in court and tribunal decisions 2016–17

ALRC REPORT	CASES
<i>Alcohol, Drugs and Driving</i> (ALRC Report 4, 1976)	▶ <i>Atmore v Milner</i> [2016] ACTSC 260 (12 September 2016)
<i>Lands Acquisition and Compensation</i> (ALRC Report 14, 1980)	▶ <i>Secretary to the Department of Economic Development, Jobs, Transport and Resources v Manor Lakes (Werribee) Pty Ltd</i> [2017] VSCA 114 (18 May 2017)
<i>Insurance Agents, Brokers and Contracts</i> (ALRC Report 20, 1982)	<ul style="list-style-type: none"> <li>▶ <i>Lambert Leasing Inc v QBE Insurance (Australia) Ltd</i> [2016] NSWCA 254 (9 September 2016)</li> <li>▶ <i>Watkins Syndicate 0457 at Lloyds v Pantaenius Australia Pty Ltd</i> [2016] FCAFC 150 (8 November 2016)</li> <li>▶ <i>Aftermarket Network Australia Pty Ltd v Certain underwriters at Lloyd's subscribing to Policy No 6482/13(C)-13087</i> [2016] FCA 1402 (24 November 2016)</li> <li>▶ <i>Yozefovich v AI Insurance Holdings Pty Ltd (Civil Claims)</i> [2017] VCAT 379 (17 March 2017)</li> </ul>
<i>Foreign State Immunity</i> (ALRC Report 24, 1984)	<ul style="list-style-type: none"> <li>▶ <i>Bannon v Nauru Phosphate Royalties Trust (No 1)</i> [2016] VSC 425 (4 August 2016)</li> <li>▶ <i>Republic of Italy v Benvenuto &amp; Miotto</i> [2016] SAIRC 31 (23 September 2016)</li> </ul>
<i>Evidence</i> (ALRC Interim Report 26, 1985)	<ul style="list-style-type: none"> <li>▶ <i>The Queen v Debresay (Ruling No 1)</i> [2016] VSC 487 (16 August 2016)</li> <li>▶ <i>R v Charbaji, Azam; Charbaji, Haysem; Jamieson, Lexy May</i> [2016] NSWSC 1862 (30 September 2016)</li> <li>▶ <i>Donohue v Tasmania</i> [2016] TASCCA 17 (5 October 2016)</li> <li>▶ <i>Tasmania v C</i> [2016] TASSC 9 (13 October 2016)</li> <li>▶ <i>Vojneski v The Queen</i> [2016] ACTCA 57 (10 November 2016)</li> <li>▶ <i>Roland v Tasmania</i> [2016] TASCCA 20 (22 November 2016)</li> </ul>

## ALRC REPORT

## CASES

<p>Continued: <i>Evidence</i> (ALRC Interim Report 26, 1985)</p>	<ul style="list-style-type: none"> <li>▶ <i>Hashi v The Queen</i> [2016] VSCA 288 (25 November 2016)</li> <li>▶ <i>CSR Limited v Amaca Pty Ltd</i> [2016] VSCA 320 (16 December 2016)</li> <li>▶ <i>Lawson &amp; Lawson</i> [2017] FamCA 42 (2 February 2017)</li> <li>▶ <i>Fair Work Ombudsman v A to Z Catering Solutions Pty Ltd &amp; Anor</i> [2017] FCCA 188 (3 February 2017)</li> <li>▶ <i>R v Thompson (No 3)</i> [2017] ACTSC 53 (17 March 2017)</li> <li>▶ <i>Narkis v Narkis (No 6)</i> [2017] FamCA 226 (13 April 2017)</li> <li>▶ <i>Young v Hughes Trueman Pty Ltd (No 4)</i> [2017] FCA 456 (5 May 2017)</li> <li>▶ <i>Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union</i> [2017] FCA 550 (22 May 2017)</li> <li>▶ <i>R v Lou</i> [2017] ACTSC 127 (8 June 2017)</li> <li>▶ <i>Hughes v The Queen</i> [2017] HCA 20 (14 June 2017)</li> </ul>
<p><i>Recognition of Aboriginal Customary Laws</i> (ALRC Report 31, 1986)</p>	<ul style="list-style-type: none"> <li>▶ <i>Re Estate Wilson, Deceased</i> [2017] NSWSC 1 (18 January 2017)</li> </ul>
<p><i>Civil Admiralty Jurisdiction</i> (ALRC Report 33, 1986)</p>	<ul style="list-style-type: none"> <li>▶ <i>The Ship "Sam Hawk" v Reiter Petroleum Inc</i> [2016] FCAFC 26 (28 September 2016)</li> <li>▶ <i>Delaware North Marine Experience Pty Ltd v The Ship "Eye-Spy"</i> [2017] FCA 708 (23 June 2017)</li> </ul>
<p><i>Evidence</i> (ALRC Report 38, 1987)</p>	<ul style="list-style-type: none"> <li>▶ <i>R v Lou</i> [2017] ACTSC 127 (8 June 2017)</li> <li>▶ <i>Hughes v The Queen</i> [2017] HCA 20 (14 June 2017)</li> </ul>
<p><i>Matrimonial Property</i> (ALRC Report 39, 1987)</p>	<ul style="list-style-type: none"> <li>▶ <i>Smith v Smith</i> [2017] NSWSC 408 (13 April 2017)</li> </ul>
<p><i>Service and Execution of Process</i> (ALRC Report 40, 1987)</p>	<ul style="list-style-type: none"> <li>▶ <i>Timbercorp Finance Pty Ltd (In Liq) v Allan</i> [2016] VSC 481 (26 August 2016)</li> <li>▶ <i>Grass v Williams Love &amp; Nicol Lawyers Pty Ltd</i> [2017] ACTSC 20 (10 February 2017)</li> </ul>
<p><i>Sentencing</i> (ALRC Report 44, 1988)</p>	<ul style="list-style-type: none"> <li>▶ <i>DPP (Cth) v Thomas</i> [2016] VSCA 237 (10 October 2016)</li> </ul>

ALRC REPORT	CASES
<p><i>General Insolvency Inquiry</i> (ALRC Report 45, 1988)</p>	<ul style="list-style-type: none"> <li>▶ <i>Britax Childcare Pty Ltd, in the matter of Infa Products Pty Ltd v Infa Products Pty Ltd (Administrators Appointed)</i> [2016] FCA 848 (28 July 2016)</li> <li>▶ <i>Australian Competition and Consumer Commission v Phoenix Institute of Australia Pty Ltd (Subject to Deed of Company Arrangement)</i> [2016] FCA 1246 (21 October 2016)</li> <li>▶ <i>In the matter of Maria's Farm Veggies Pty Ltd (admins apptd)</i> [2016] NSWSC 1770 (30 November 2016)</li> <li>▶ <i>Sydney Recycling Park Pty Ltd v Cardinal Group Pty Ltd (in liq)</i> [2016] NSWCA 329 (29 November 2016)</li> </ul>
<p><i>Grouped Proceedings in the Federal Court</i> (ALRC Report 46, 1988)</p>	<ul style="list-style-type: none"> <li>▶ <i>Melbourne City Investments Pty Ltd v Treasury Wine Estates Limited; In the Matter of Treasury Wine Estates Limited</i> [2016] FCA 787 (5 July 2016)</li> <li>▶ <i>Money Max Int Pty Ltd (Trustee) v QBE Insurance Group Limited</i> [2016] FCAFC 148 (26 October 2016)</li> <li>▶ <i>Timbercorp Finance Pty Ltd (in liquidation) v Collins; Timbercorp Finance Pty Ltd (in liquidation) v Tomes</i> [2016] HCA 44 (9 November 2016)</li> <li>▶ <i>Earglow Pty Ltd v Newcrest Mining Limited</i> [2016] FCA 1433 (28 November 2016)</li> <li>▶ <i>Gibson v Malaysian Airline System Berhad (No 2)</i> [2017] FCA 701 (23 June 2017)</li> <li>▶ <i>A S v Minister for Immigration &amp; Ors (Ruling No 7)</i> [2017] VSC 137 (27 March 2017)</li> <li>▶ <i>Kamasee v Commonwealth of Australia &amp; Ors (No 1) (Issues for trial ruling)</i> [2017] VSC 272 (19 May 2017)</li> <li>▶ <i>Melbourne City Investments Pty Ltd v Treasury Wine Estates Limited</i> [2017] FCAFC 98 (20 June 2017)</li> </ul>
<p><i>Personal Property Securities</i> (ALRC Report 64, 1993)</p>	<ul style="list-style-type: none"> <li>▶ <i>Hamersley Iron Pty Ltd v Forge Group Power Pty Ltd (In Liquidation) (Receivers and Managers Appointed)</i> [2017] WASC 152 (2 June 2017)</li> </ul>
<p><i>Collective Investments: Other People's Money</i> (ALRC Report 65, 1993)</p>	<ul style="list-style-type: none"> <li>▶ <i>Lewski v Australian Securities &amp; Investments Commission</i> [2016] FCAFC 96 (14 July 2016)</li> <li>▶ <i>In the matter of Macquarie Investment Management Limited</i> [2016] NSWSC 1184 (23 August 2016)</li> <li>▶ <i>Timbercorp Finance Pty Ltd v Collins &amp; Ors</i> [2016] VSC 776 (15 December 2016)</li> <li>▶ <i>Australian Securities and Investments Commission v Avestra Asset Management Limited (In Liquidation)</i> [2017] FCA 497 (12 May 2017)</li> </ul>

ALRC REPORT	CASES
<i>Designs</i> (ALRC Report 75, 1995)	▶ <i>Hunter Pacific International Pty Ltd v Martec Pty Ltd</i> [2016] FCAFC 96 (8 July 2016)
<i>Seen and Heard: Priority for Children in the Legal Process</i> (ALRC Report 84, 1997)	▶ <i>The Queen v Debresay (Ruling No 1)</i> [2016] VSC 487 (16 August 2016) ▶ <i>R v Kiely</i> [2016] SASCFC 151 (21 December 2016) ▶ <i>Ward (a Pseudonym) v The Queen</i> [2017] VSCA 37 (3 March 2017)
<i>Confiscation that Counts: A Review of the Proceeds of Crime Act 1987</i> (ALRC Report 87, 1999)	▶ <i>ACT Director of Public Prosecutions v Nikro</i> [2017] ACTSC 15 (17 February 2017) ▶ <i>R v Song (No 2)</i> [2017] ACTSC 148 (23 June 2017)
<i>Managing Justice: A Review of the Federal Civil Justice System</i> (ALRC Report 89, 2000)	▶ <i>Mesiha v Murrell</i> [2017] NSWCATAP 1 (5 January 2017) ▶ <i>Ding v Ding</i> [2017] FamCA 211 (3 April 2017) ▶ <i>Connor v Cosgrove</i> [2017] FamCAFC 61 (5 April 2017)
<i>Principled Regulation: Federal Civil and Administrative Penalties in Australia</i> (ALRC Report 95, 2002)	▶ <i>ASIC v Flugge (No 2)</i> [2017] VSC 117 (10 April 2017)
<i>Uniform Evidence Law</i> (ALRC Report 102, 2005)	▶ <i>The Queen v Debresay (Ruling No 1)</i> [2016] VSC 487 (16 August 2016) ▶ <i>Ying Mui &amp; Ors v Frank Kiang Ngan Hoh &amp; Ors (Ruling No 2)</i> [2016] VSC 531 (5 September 2016) ▶ <i>R v BI (No 3)</i> [2016] ACTSC 356 (12 December 2016) ▶ <i>Health Care Complaints Commission v Istephan</i> [2017] NSWCATOD 15 (24 January 2017) ▶ <i>Clegg v R</i> [2017] NSWCCA 125 (9 June 2017) ▶ <i>R v Quami &amp; Quami (No 12)</i> [2017] NSWSC 134 (28 February 2017) ▶ <i>AL v Regina</i> [2017] NSWCCA 34 (22 March 2017) ▶ <i>Clarke (A Pseudonym) v The Queen</i> [2017] VSCA 115 (18 May 2017) ▶ <i>R v Lou</i> [2017] ACTSC 127 (8 June 2017) ▶ <i>Hughes v The Queen</i> [2017] HCA 20 (14 June 2017)
<i>Same Crime, Same Time: Sentencing of Federal Offenders</i> (ALRC Report 103, 2006)	▶ <i>Director of Public Prosecutions (Cth) v Pratten (No 2)</i> [2017] NSWCCA 42 (17 March 2017)
<i>For Your Information: Australian Privacy Law and Practice</i> (ALRC Report 108, 2008)	▶ <i>Jurecek v Director, Transport Safety Victoria</i> [2016] VSC 285 (11 October 2016)

# ▶ APPENDIX F: PRESENTATIONS AND ARTICLES

## PRESENTATIONS

- ▶ Professor Rosalind Croucher, 'The ALRC's Elder Abuse Inquiry' — Webinar hosted by the Elder Abuse Prevention Unit Queensland, 14 July 2016
- ▶ Professor Rosalind Croucher, 'The ALRC's Freedoms Report and Government Lawyers: Issues on the Horizon' — Australian Government Legal Network, 29 July 2016
- ▶ Professor Rosalind Croucher, 'What's the secret?' — Leadership Lunch Series, Women Lawyers NSW, 4 August 2016
- ▶ Professor Rosalind Croucher, 'Mutual Wills: An Ancient Doctrine with Modern Teeth' — STEP Qld Annual Trusts and Estates Conference, 2 September 2016
- ▶ Professor Rosalind Croucher, 'The Common Law and the Protection of Rights, Freedoms and Privileges: Insights from the ALRC Freedoms Inquiry' — Marylyn Mayo Lecture 2016, 12 September 2016
- ▶ Professor Rosalind Croucher, 'Seeking Equilibrium', panel discussion — Maurice Blackburn Women's Network, 6 October 2016
- ▶ Professor Rosalind Croucher, 'Modelling Supported Decision Making in Commonwealth Laws: the ALRC's 2014 Report and Making it Work' — Australian Guardianship and Administration Council 2016 National Conference, 'Reflecting Will and Preference in Decision Making', 18 October 2016
- ▶ Professor Rosalind Croucher, 'Protecting the Rights of Older Australians from Abuse through Laws and Legal Frameworks: The ALRC's Elder Abuse Inquiry' — Australian Association of Gerontology National Conference, 4 November 2016
- ▶ Professor Rosalind Croucher, 'Encroachments on Freedoms: The ALRC Freedoms Inquiry' — NSW Bar Association Human Rights Committee, 10 November 2016
- ▶ Professor Rosalind Croucher, 'Guardianship and Advance Care Directives in the Context of Elder Abuse: The ALRC's Elder Abuse Inquiry' — Australian Research Network on Law and Ageing and Flinders Law School Roundtable on 'Intersections Between Elder Abuse, Guardianship and Advance Care Directives in SA', 30 November 2016
- ▶ Professor Rosalind Croucher, 'A Lament for Family Provision: A Good Idea Gone Wrong? Australian Reflections' — A Colloquium on 40 Years of the PRA: Reflection and Reform, 8 December 2016
- ▶ Shreeya Smith — UNSW Pre-Law Program, law reform class, 12 December 2016.
- ▶ Sabina Wynn and Matt Corrigan, 'The Elder Abuse Discussion Paper proposals' — Independent Agencies for Older Australians (IAFOA), 2 February 2017
- ▶ Professor Rosalind Croucher, 'Issues on Ageing and Older People: the ALRC's Contributions' — NSW Ministerial Advisory Committee on Ageing, 9 February 2017
- ▶ Professor Rosalind Croucher, 'In Conversation with Professor Rosalind Croucher AM' — Curtin Law School Eminent Speakers Series, 14 February 2017
- ▶ Professor Rosalind Croucher, 'Framing Law Reform to Address Elder Abuse' — Stakeholder Roundtable, 15 February 2017
- ▶ Sabina Wynn and Julie MacKenzie, 'ALRC Elder Abuse Inquiry' — Australian Aged Care Quality Agency Advisory Council meeting, 15 February 2017



- ▶ Professor Rosalind Croucher, 'Protecting the Rights of Older Australians from Abuse: the ALRC's Current Work' — International Commission of Jurists Australia, 20 February 2017
- ▶ Matt Corrigan, 'What Role for Law Reform Commissions' — ANU law reform class, 22 March 2017
- ▶ Professor Rosalind Croucher, 'Supporting Older People in Exercising and Protecting Their Rights: Insights from the ALRC's Disability and Elder Abuse Inquiries' — Aged and Disability Advocacy National Conference, 'Human Rights & Social Justice: Shifting Client Control', 23 March 2017
- ▶ Professor Rosalind Croucher, 'Framing Law Reform to Address Elder Abuse: the ALRC's Inquiry' — Australian Guardianship and Administration Council Meeting, 24 March 2017
- ▶ Professor Rosalind Croucher, 'Law Reform Agencies and Government: Independence, Survival and Effective Law Reform?' — Commonwealth Association of Law Reform Agencies Conference, 25 March 2017
- ▶ Sabina Wynn, 'Law Reform: Responding to a Digital World' — Legal Studies State Conference, 30 March 2017
- ▶ Sabina Wynn, 'The ALRC's Indigenous Incarceration Inquiry' — National Policing Conference, 6 June 2017
- ▶ Professor Rosalind Croucher, 'Q and A' — Property Council of Australia, 'Women Leaders in Conversation', 8 June 2017
- ▶ Professor Rosalind Croucher, 'Elder Abuse: A National Legal Response' — Elder Abuse Reform Symposium, 15 June 2017
- ▶ Professor Rosalind Croucher, 'Supporting Older People in Exercising and Protecting their Rights: Insights from the ALRC's Elder Abuse Inquiry' — Aged Rights Advocacy Service, World Elder Abuse Awareness Day Conference, 16 June 2017

- ▶ Professor Rosalind Croucher, 'Leadership Recipes' — Public Sector Women in Leadership Conference, 27 June 2017.

## ARTICLES

- ▶ Professor Rosalind Croucher, 'Getting to Grips with Encroachments on Freedoms in Commonwealth Laws: the ALRC Freedoms Inquiry' — (2016) 90 *Australian Law Journal* 478–497
- ▶ Professor Rosalind Croucher, 'Seismic shifts: Reconfiguring "Capacity" in Law and the Challenges of Article 12 of the United Nations Convention on the Rights of Persons with Disability' — [2016] 22 *International Journal of Mental Health and Capacity Law* 7–16
- ▶ Professor Rosalind Croucher, 'Protecting the Rights of Older Australians from Abuse: the ALRC Elder Abuse Inquiry' — (2016) 10 *Elder Law Review*
- ▶ Professor Rosalind Croucher, 'Laws of Succession and the New Biology: Reflections from Australia' — (2017) 23(1) *Trusts & Trustees* 66–79
- ▶ Vanessa Viaggio, 'Elder Abuse: Reforming the Law' — (2017) *The Brief*, February 2017
- ▶ Matt Corrigan, 'Have Your Say on Preventing Elder Abuse' — (2016) 39(1) *Law Society Bulletin (SA)*
- ▶ Sallie McLean, 'Reform Proposals Target Elder Abuse' — (2017) *Proctor*, February 2017
- ▶ Marie-Claire Muir, 'ALRC Wants Your Views in Elder Abuse Inquiry' — (2017) *Law Society of NSW Journal*, February 2017.



# ▶ APPENDIX G: PARTICIPATION IN EXTERNAL INQUIRIES

Often through its inquiry work the ALRC has already conducted valuable research into areas of law or legal processes that become subject to review by other agencies or parliamentary committees. Where appropriate and relevant, the ALRC provides briefings or written submissions to parliamentary committees, Ministers, government departments, and other bodies. In this way, the experience and knowledge the ALRC develops during inquiries is shared for the benefit of the Australian community.

The ALRC is guided by a protocol that outlines when it is appropriate for the ALRC to give a briefing or to make an external submission. The considerations include:

- ▶ the consonance of issues raised in the review or inquiry being undertaken by the external body with issues covered in current or past inquiry work of the ALRC;
- ▶ the consonance of issues raised in the review or inquiry being undertaken by the body and the expertise and knowledge of current Commissioners and staff members; and
- ▶ the availability of, and impact upon, ALRC resources.

Where appropriate, submissions are made available on the ALRC website.

During the reporting period, the ALRC made the following submissions:

- ▶ Submission to the Inquiry by the Legal Affairs and Community Safety Committee into the Health and Other Legislation Amendment Bill 2016 with reference to two previous ALRC Reports, *For Your Information: Australian Privacy Law and Practice* (ALRC Report 108, 2008) and *Equality, Capacity and Disability in Commonwealth Laws* (ALRC Report 124, 2014)

- ▶ Submission to the Inquiry by the Parliamentary Joint Committee on Human Rights about Freedom of Speech in Australia with reference to the ALRC Report, *Traditional Rights and Freedoms—Encroachments by Commonwealth Laws* (ALRC Report 129, 2016)
- ▶ Submission to the Inquiry by the Parliamentary Joint Committee on Corporations and Financial Services into Whistleblower Protections in the Corporate, Public and Not-for-Profit Sectors with reference to the ALRC Reports, *Secrecy Laws and Open Government in Australia* (ALRC Report 112, 2009), and *Keeping Secrets: The Protection of Classified and Security Sensitive Information* (ALRC Report 98, 2004)
- ▶ Submission to the Inquiry by the Senate Economics Reference Committee into Consumer Protection in the Banking, Insurance and Financial Services Sectors with reference to the ALRC Reports, *Family Violence and Commonwealth Laws—Improving Legal Frameworks* (ALRC Report 117, 2012), *Access All Ages—Older Workers and Commonwealth Laws* (ALRC Report 120, 2013) and *Equality, Capacity and Disability in Commonwealth Laws* (ALRC Report 124, 2014)

- ▶ Submission to the Inquiry by the Senate Standing Committee on Legal and Constitutional Affairs, Legislation Committee into the Native Title Amendment (Indigenous Land Use Agreements) Bill 2017 [Provisions] with reference to the ALRC Report, *Connection to Country: Review of the Native Title Act 1993 (Cth)* (ALRC Report 126, 2015)
- ▶ Submission to the Inquiry by the House of Representatives Standing Committee on Social Policy and Legal Affairs into a Better Family Law System to Support and Protect those Affected by Family Violence, referencing the ALRC and NSWLRC Report, *Family Violence—A National Legal Response* (ALRC Report 114, 2010)
- ▶ Submission to the Senate Standing Committee of Privileges Inquiry into Parliamentary Privilege and the Use of Intrusive Powers, referencing the ALRC Report, *Secrecy Laws and Open Government in Australia* (ALRC Report 112, 2009)
- ▶ Submission to the Department of Social Services on the NDIS Code of Conduct with reference to the ALRC Report, *Equality, Capacity and Disability in Commonwealth Laws* (ALRC Report 124, 2014).

# ▶ APPENDIX H: DIVERSITY

The ALRC workplace diversity statement commits the ALRC to foster a diverse workforce and to ensure that its recruitment processes are fair and accessible, including a commitment to attract and recruit people from diverse backgrounds and, wherever possible, to participate in whole-of-APS recruitment. A breakdown of staff by gender and classification is provided in Table 5.

## AGENCY MULTICULTURAL PLAN

The ALRC recognises the diversity of the Australian community and is committed to ensuring that all Australians are able to participate in the law reform process. The ALRC Agency Multicultural Plan (AMP) provides strategies for ensuring ALRC processes are accessible and responsive to the needs of this diverse community. The ALRC commits to:

- ▶ engage and consult with diverse groups, individuals and organisations;
- ▶ promote diverse representation in the ALRC workforce and internship program;
- ▶ promote understanding of issues relevant to diverse peoples amongst ALRC staff; and
- ▶ consider the impact on diverse peoples in developing recommendations for reform.

As a law reform body, the ALRC has the opportunity to contribute to social justice, equity and inclusion in Australia through reform of laws appropriate to the diversity of the Australian community. Under its AMP, the ALRC commits to engaging and consulting with culturally and linguistically diverse organisations and communities and to consider the impact on them when formulating recommendations for law reform.

Information about how people can engage with the law reform process and make submissions is available on the ALRC website in 21 community languages, including Auslan. These documents have also been produced in Easy English, for people with low English literacy skills.

The ALRC AMP is available online at [alrc.gov.au/about/policies/agency-multicultural-plan](http://alrc.gov.au/about/policies/agency-multicultural-plan).

## RECONCILIATION ACTION PLAN

The ALRC sees reconciliation between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians as comprising both processes and outcomes—requiring meaningful and ongoing dialogue between Aboriginal and Torres Strait Islander peoples and the ALRC. Respect of Aboriginal and Torres Strait Islander peoples, their participation in ALRC inquiries, and consideration of issues that are important to them, are essential features of the ALRC commitment to reconciliation.

The ALRC has a Reflect Reconciliation Action Plan. It commits the ALRC to:

- ▶ engage and consult with Aboriginal and Torres Strait Islander groups, individuals and organisations;
- ▶ promote Aboriginal and Torres Strait Islander representation in the ALRC workforce and internship program;

- ▶ promote a meaningful understanding of issues relevant to Aboriginal and Torres Strait Islander peoples amongst ALRC staff;
- ▶ consider the impact on Aboriginal and Torres Strait Islander peoples in developing recommendations for reform; and
- ▶ strive in all aspects of our work to protect and promote the rights of Aboriginal and Torres Strait Islander peoples.

The ALRC Reconciliation Action Plan is available online at [alrc.gov.au/reconciliation-action-plan](http://alrc.gov.au/reconciliation-action-plan).

# ▶ APPENDIX I: INTERNATIONAL OUTREACH

## VISITORS

On 22 July 2016, the ALRC welcomed a delegation from the Thailand Ministry of Justice's Office of Justice Affairs. The purpose of the visit was to gain knowledge of ALRC law reform processes to help the delegation in designing legal development frameworks to enhance Thailand's legal and justice systems.

Emeritus Professor Rosalind Croucher AM presented a paper, *Law Reform Agencies and Government—Independence, Survival and Effective Law Reform?* The conference welcomed delegates from around the world including the United States of America and Malawi, as well as delegates from within Australia.

## COMMONWEALTH ASSOCIATION OF LAW REFORM AGENCIES

In March 2017 the Commonwealth Association of Law Reform Agencies Conference was held in Melbourne with the assistance of the Victorian Law Reform Commission. The theme of the conference was *Effective Law Reform—Sharing Together Across the World*. ALRC President,

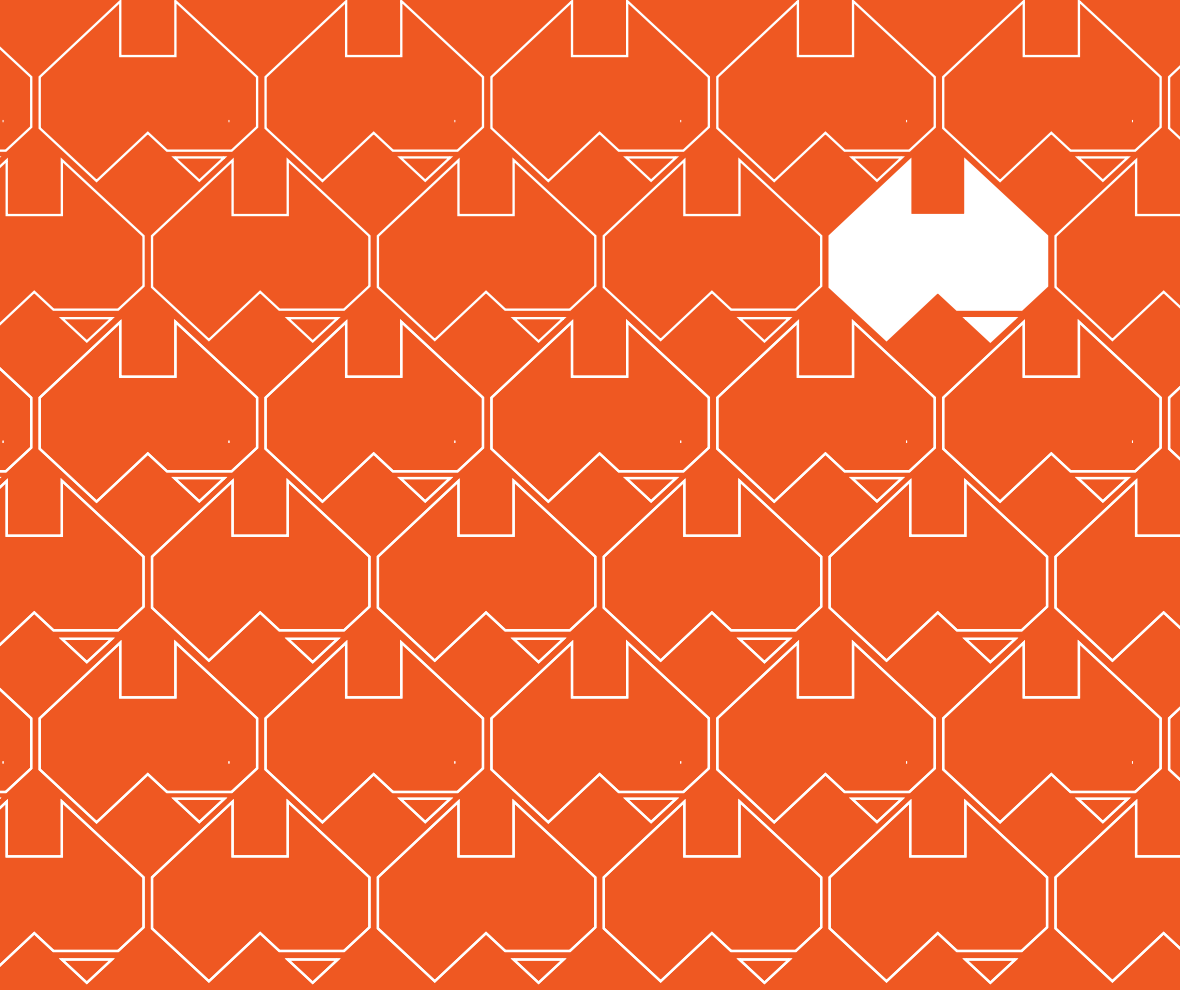
ALRC President, Professor Rosalind Croucher with delegates from the Ministry of Justice, Office of Justice Affairs Thailand





# 7

## GLOSSARY AND INDEXES



# ▶ GLOSSARY

AASB	Australian Accounting Standards Board	FTE	Full-Time Equivalent
ABS	Australian Bureau of Statistics	HCA	High Court of Australia
ACTCA	Supreme Court of Australian Capital Territory, Court of Appeal	IP	Issues Paper
ACTSC	Supreme Court of Australian Capital Territory	KPI	Key Performance Indicator
ALRC	Australian Law Reform Commission	LO	Legal Officer
ALRC Act	<i>Australian Law Reform Commission Act 1996 (Cth)</i>	NABERS	National Australian Built Environment Rating System
AM	Member of the Order of Australia	NSWCA	Supreme Court of New South Wales, Court of Appeal
AMP	Agency Multicultural Plan	NSWCATAP	New South Wales Civil & Administrative Tribunal—Appeal Panel
AO	Officer of the Order of Australia	NSWCATOD	New South Wales Civil & Administrative Tribunal—Occupational Division
APS	Australian Public Service	NSWCCA	Supreme Court of New South Wales, Court of Criminal Appeal
CFO	Chief Financial Officer	NSWSC	Supreme Court of New South Wales
Cth	Commonwealth of Australia	PDF	Portable Document Format
DP	Discussion Paper	PGPA Act	<i>Public Governance, Performance and Accountability Act 2013 (Cth)</i>
EL	Executive Level	PLO	Principal Legal Officer
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>	QC	Queen’s Counsel
ERMP	Enterprise Risk Management Plan	SAIRC	South Australia Industrial Relations Court
FamCA	Family Court of Australia	SASCFC	Supreme Court of South Australia, Full Court
FamCAFC	Family Court of Australia, Full Court	SES	Senior Executive Service
FCA	Federal Court of Australia	SLO	Senior Legal Officer
FCAFC	Federal Court of Australia, Full Court	SME	Small and Medium Enterprises
FCP	Fraud Control Plan	TASCCA	Supreme Court of Tasmania, Court of Criminal Appeal
FOI	Freedom of Information		



TASSC	Supreme Court of Tasmania
VCAT	Victoria Civil & Administrative Tribunal
VSC	Supreme Court of Victoria
VSCA	Supreme Court of Victoria, Court of Appeal
WASC	Supreme Court of Western Australia
WH&S	Work Health and Safety
WHO	World Health Organisation

# ▶ LIST OF REQUIREMENTS

This is a guide to this report's compliance with the requirements for Annual Reports, as required by s 17AJ(d) of the PGPA Rule.

Part of Report	Description	Page No.
<b>Letter of Transmittal</b>		
	A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	iii
<b>Aids to Access</b>		
	Table of contents.	iv
	Alphabetical index.	104
	Glossary of abbreviations and acronyms.	96
	List of requirements.	98
	Details of contact officer.	ii
	Entity's website address.	ii
	Electronic address of report.	ii
<b>Review by Accountable Authority</b>		
	A review by the accountable authority of the entity.	2
<b>Overview of the Entity</b>		
	A description of the role and functions of the entity.	11
	A description of the organisational structure of the entity.	10
	A description of the outcomes and programmes administered by the entity.	14
	A description of the purposes of the entity as included in corporate plan.	15, 71

Part of Report	Description	Page No.
	Where the outcomes and programmes administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	Not applicable
<b>Report of the Performance of the Entity</b>		
Annual Performance Statements		
	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	15
Report on Financial Performance		
	A discussion and analysis of the entity's financial performance.	21
	A table summarising the total resources and total payments of the entity.	77
	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	Not applicable
<b>Management and Accountability</b>		
Corporate Governance		
	Information on compliance with section 10 (fraud systems).	29
	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	29
	A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	29
	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	29
	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	24

Part of Report	Description	Page No.
	A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance.	Not applicable
External Scrutiny		
	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	31
	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	Not applicable
	Information on any reports on operations of the entity by the Auditor-General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	Not applicable
	Information on any capability reviews on the entity that were released during the period.	Not applicable
Management of Human Resources		
	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	33
	<p>Statistics on the entity's APS employees on an ongoing and non-ongoing basis, including the following:</p> <p>Statistics on staffing classification level;</p> <p>Statistics on full-time employees;</p> <p>Statistics on part-time employees;</p> <p>Statistics on gender;</p> <p>Statistics on staff location;</p> <p>Statistics on employees who identify as Indigenous.</p>	32
	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i> .	32
	Information on the number of SES and non-SES employees covered by agreements etc identified in paragraph 17AG(4)(c).	32

Part of Report	Description	Page No.
	The salary ranges available for APS employees by classification level.	32
	A description of non-salary benefits provided to employees.	32
	Information on the number of employees at each classification level who received performance pay.	33
	Information on aggregate amounts of performance pay at each classification level.	33
	Information on the average amount of performance payment, and range of such payments, at each classification level.	33
	Information on aggregate amount of performance payments.	33
Assets Management		
	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities.	Not applicable
Purchasing		
	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .	35
Consultants		
	A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	36
	A statement that "During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]."	36

Part of Report	Description	Page No.
	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	36
	A statement that “Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.”	36
Australian National Audit Office Access Clauses		
	If an entity entered into a contract with a value of more than \$100 000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor’s premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract.	Not applicable
Exempt Contracts		
	If an entity entered into a contract or there is a standing offer with a value greater than \$10 000 (inclusive of GST) which has been exempt from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	Not applicable
Small Business		
	A statement that “[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance’s website.”	36
	An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	36
	If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that “[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury’s website.”	Not applicable

Part of Report	Description	Page No.
<b>Financial Statements</b>		
	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	41
<b>Other Mandatory Information</b>		
	If the entity conducted advertising campaigns, a statement that "During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity's website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance's website."	Not applicable
	If the entity did not conduct advertising campaigns, a statement to that effect.	36
	A statement that "Information on grants awarded to [name of entity] during [reporting period] is available at [address of entity's website]."	Not applicable
	Outline of mechanisms of disability reporting, including reference to website for further information.	37
	Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	37
	Correction of material errors in previous annual report.	Not applicable
	Information required by other legislation.	37

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