



SUBMISSION | NEW SOUTH WALES  
**BAR ASSOCIATION**

Supplementary 2020-21 Pre-Budget Submission to  
Treasury

31 August 2020

### **Promoting the administration of justice**

The NSW justice system is built on the principle that justice is best served when a fiercely independent Bar is available and accessible to everyone: to ensure all people can access independent advice and representation, and fearless specialist advocacy, regardless of popularity, belief, fear or favour.

NSW barristers owe their paramount duty to the administration of justice. Our members also owe duties to the Courts, clients, and colleagues.

The Association serves our members and the public by advocating to government, the Courts, the media and community to develop laws and policies that promote the Rule of Law, the public good, the administration of and access to justice.

### **The New South Wales Bar Association**

The Association is a voluntary professional association comprised of more than 2,400 barristers who principally practice in NSW. We also include amongst our members Judges, academics, and retired practitioners and Judges.

Under our Constitution, the Association is committed to the administration of justice, making recommendations on legislation, law reform and the business and procedure of Courts, and ensuring the benefits of the administration of justice are reasonably and equally available to all members of the community.

This Submission is informed by the insight and expertise of the Association's members, including its Legal Aid and Family Law Committees, and their experiences in the NSW registries of the federal Courts. If you would like any further information regarding this submission, our contact is the Association's Director of Policy and Public Affairs, Elizabeth Pearson, at [epearson@nswbar.asn.au](mailto:epearson@nswbar.asn.au) at first instance.

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# 1. Executive Summary and recommendations

1. The New South Wales Bar Association (**the Association**) thanks Treasury for the opportunity to provide a supplementary 2020-21 Pre-Budget Submission.
2. The Association acknowledges the devastating personal and financial costs of the COVID-19 pandemic for the Australian economy and community. In February 2020 the Association [made a submission to Treasury](#) outlining priorities for the 2020-21 Budget (**the February Submission**). The Association's recommendations included that as an immediate priority the 2020-21 Budget:
  - a. Increase funding for Legal Aid and legal assistance in 2020-21 and over the forward estimates;
  - b. Retain legal assistance for Aboriginal and Torres Strait Islander Peoples as a standalone, independent Commonwealth funding program;
  - c. Increase funding and resourcing of the family law system in 2020-21 and over the forward estimates, including to consider and engage with recommendations of the Australian Law Reform Commission's landmark review of the family law system (such as recommendations to overcome any jurisdictional gaps and improve information sharing between state-based child protection and family violence prevention, and Commonwealth family jurisdiction);
  - d. Maintain and adequately fund a specialist, stand-alone and properly resourced Family Court in Australia to continue to provide specialist assistance to children, families and survivors of family violence;
  - e. Fund the appointment of additional judicial officers, including specialist family law judges, to reflect the expansion and meet the workload of the family law courts;
  - f. Secure sufficient ongoing funding for the Family Violence and Cross-examination of Parties Scheme to protect vulnerable witnesses under the recently commenced *Family Law Act 1975* (Cth) section 102NA.
3. These matters remain live issues of ongoing concern. The Association submits these should remain urgent priorities for the 2020-21 Budget, to be delivered in October, and must not be deferred.
4. Responses to COVID-19 have been hampered by the fact that Australia was already experiencing a justice deficit before the pandemic, caused by existing delays, chronic under-resourcing and under-funding.
5. Many justice services, courts and legal assistance providers were already struggling with limited resources and themselves in desperate need of funding relief before the pandemic. This strain has been compounded by the increased legal need during the pandemic.
6. The COVID-19 pandemic has reinforced the importance of properly funding and resourcing legal assistance providers, family violence service providers, the courts and family law system at all times to ensure they possess the resilience and agility to respond to increased need in times of crisis.

7. While the pandemic is unprecedented, it has been estimated that Australians have a “1 in 6 estimated lifetime exposure to natural disaster”.<sup>1</sup> Budgeting to ensure access to affordable, timely legal assistance and justice at all time is critical to deter unlawful behaviour, protect vulnerable people and uphold individuals’ rights.
8. In addition, the Association recommends that the Commonwealth Government urgently respond to, fund and implement the recommendations of the Australian Law Reform Commission’s 2018 *Pathways to Justice* Report,<sup>2</sup> including:
  - a. the establishment of an independent justice reinvestment body, overseen by a Board with Aboriginal and Torres Strait Islander leadership, and the initiation of justice reinvestment trials to promote engagement in the criminal justice system;
  - b. the establishment of properly resourced, specialist Aboriginal and Torres Strait Islander sentencing courts to be designed and implemented in consultation with First Nations organisations;
  - c. the diversion of resources from the criminal justice system to community based initiatives that aim to address the causes of Indigenous incarceration;
  - d. the expansion of culturally appropriate community-based sentencing options, resourced and supported by state governments;
  - e. repeal of mandatory or presumptive sentencing regimes which have a disproportionate effect on First Nations offenders;
  - f. raising the minimum age of criminal responsibility and the minimum age of children in detention to 14.
9. First Nations Peoples remain unacceptably over-represented in Australian prisons and the criminal justice system, despite a number of reports and inquiries over some decades. Aboriginal and Torres Strait Islander people make up around three percent of the total population in Australia yet account for 29 percent of the total adult prisoner population.<sup>3</sup>
10. It is incumbent on the Commonwealth Government to take meaningful action as a priority to end the over-representation of First Nations Peoples in custody. There can be no excuse for further delay on the part of the Commonwealth Government where there is a clear way forward to address this crisis.

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<sup>1</sup> Women’s Health Goulburn North East, ‘*The way he tells it...*’ *Relationships after Black Saturday* (2011) 1 <[genderanddisaster.com.au/wp-content/uploads/2015/06/Doc-005-The-Way-He-Tells-it1.pdf](http://genderanddisaster.com.au/wp-content/uploads/2015/06/Doc-005-The-Way-He-Tells-it1.pdf)>.

<sup>2</sup> Australian Law Reform Commission, *Pathways to Justice*, ALRC Report 133 (2018) <<https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/>>.

<sup>3</sup> See Law Council of Australia, ‘What will it take for governments to recognise Australia’s justice gap is a national tragedy?’ 16 June 2020 <<https://www.lawcouncil.asn.au/media/news/opinion-piece-what-will-it-take-for-governments-to-recognise-australias-justice-gap-is-a-national-tragedy>>.

## 2. The justice deficit: pre-COVID-19 backlogs in the federal justice system

11. The courts, Legal Aid and legal assistance providers were already over-worked, chronically under-funded and severely under-resourced before the pandemic struck. Despite best efforts, this has inevitably impacted upon their ability to respond swiftly to community legal need arising during the pandemic.
12. The February Submission detailed the extent of unmet legal need and substantial backlogs that existed in the federal justice system prior to the COVID-19 pandemic. In summary, pre-COVID-19, this included:
  - a. Federal funding for Legal Aid and legal assistance falling hundreds of millions of dollars short of what was required to meet demand. Pressures and under-funding of Legal Aid impacts adversely on the availability of assistance in criminal and civil matters and contributes to the levels of delay experienced in the criminal justice system. Other flow-on effects can include wrongful incarceration, loss of confidence in the justice system, increases in appeals, and aborted trials and retrials;<sup>4</sup>
  - b. The Commonwealth Government failing to take its share of responsibility for the current Legal Aid crisis as a 50:50 partner with State Governments, a commitment it has failed for many years to keep. Legal Aid had been progressively cut by successive Federal Governments, to the point where the Federal Government's contribution had dropped from 55 percent in 1996-1997 to 32 per cent in 2017-18;<sup>5</sup>
  - c. Some families having to wait up to three years,<sup>6</sup> or longer, to have their family law disputes resolved;
  - d. Family Violence Prevention Legal Services having to turn away between 30 to 40% of people contacting them for support because they did not have resources to meet community demand;<sup>7</sup>

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<sup>4</sup> For more information, see Part 3 'The business case for further funding of Legal Aid and legal assistance' of the February Submission.

<sup>5</sup> Commonwealth, Parliamentary Debates, Senate, 10 May 2018, 2868 (Senator Griff, South Australia), cited in Law Council of Australia, 'Senate calls for legal aid funding increase post Budget' (Media Release, 10 May 2018)

<sup>6</sup> Explanatory Memorandum, Federal Circuit and Family Court of Australia Bill 2018, [53]; Explanatory Memorandum, Federal Circuit and Family Court of Australia Bill 2019, [59].

<sup>7</sup> Australian Women Against Violence Alliance, 'Women's lives will be at risk because of decision not to act today – domestic violence experts' (Media Release, March 2020) <[https://awava.org.au/2020/03/13/media-release/womens-lives-will-be-at-risk-because-of-decision-not-to-act-today-domestic-violence-experts?doing\\_wp\\_cron=1589642604.5754508972167968750000](https://awava.org.au/2020/03/13/media-release/womens-lives-will-be-at-risk-because-of-decision-not-to-act-today-domestic-violence-experts?doing_wp_cron=1589642604.5754508972167968750000)>.

- e. A backlog of more than a year’s worth of cases in each of the Family Court and Federal Circuit Court;<sup>8</sup>
- f. Almost 70 percent of matters before the Commonwealth family Courts involving allegations of family violence;<sup>9</sup>
- g. In the Federal Circuit Court, Judges with “workloads of anywhere up to 600 cases on a docket”<sup>10,11</sup>
- h. The backlog of all pending non-appeal applications in the Family Court having grown from 4,997 to 6,720 (34 percent) since 2012-13;<sup>12</sup>
- i. The backlog of all pending applications in the Federal Circuit Court has grown from 31,067 to 50,791 (63 percent);<sup>13</sup>
- j. The national median time to trial had increased from 10.8 months to 15.2 months in the Federal Circuit Court (an increase of 40.7 percent), and from 11.5 months to 17 months in the Family Court (47.8 percent),<sup>14</sup> from 2012-13 to 2016-17.<sup>15</sup> During that time there had been an increase of just 2.73 percent, or \$6.724 million, in the operating appropriation provided to the Federal Court, Federal Circuit Court and the Family Court together from 2013-14 to 2017-18;<sup>16</sup> and
- k. Chronic under-funding of legal aid and legal assistance in family law meant that already complex and emotionally-fraught matters were made more difficult by high rates of unrepresented litigants. In 2018-19, the volume of cases in the Family Court in which neither party had representation more than tripled during that year from 4 percent to 14 percent, while the proportion of cases in which at least one party was represented was 15 percent.<sup>17</sup> Most litigants who are unrepresented cannot afford legal representation.<sup>18</sup>

13. The February Submission outlined the business case for:

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<sup>8</sup> Nicola Berkovic, ‘Courts reject questions over delays and judges’, *The Australian* (online) 23 October 2019, citing Family Court and Federal Circuit Court *Annual Reports 2018-19* (2019).

<sup>9</sup> Women’s Legal Services Australia, Safety first in family law (2019) <[www.wlsa.org.au/campaigns/safety\\_first\\_in\\_family\\_law](http://www.wlsa.org.au/campaigns/safety_first_in_family_law)>; see also House of Representatives Standing Committee on Social Policy and Legal Affairs, A better family law system to support and protect those affected by family violence (2017) [1.6].

<sup>10</sup> A docket is the list of active cases before the Court that a Judge is managing and will eventually hear and decide.

<sup>11</sup> Chief Justice Alstergren, quoted in Tony Keim, ‘A family (court) affair’, *Proctor* (November 2019) 29.

<sup>12</sup> Australian Productivity Commission, ‘Part C – Justice’, *Report on Government Services 2020*, table 7A.21.

<sup>13</sup> *Ibid.*

<sup>14</sup> Attorney-General for Australia, ‘Court Reforms to help families save time and costs in family law disputes’ (Media release, 30 May 2018) <<https://www.attorneygeneral.gov.au/Media/Pages/Court-Reforms-to-help-families-save-time-and-costs-in-family-law-disputes.aspx>>.

<sup>15</sup> *Question Number and Title: AE18-014 - Family Court of Australia trends*, Senate Standing Committee On Legal and Constitutional Affairs, Additional Estimates 2017-18 (February 2018).

<sup>16</sup> Federal Court of Australia, *Question on Notice AE18-018 - Family Court of Australia trends*, Senate Standing Committee On Legal and Constitutional Affairs, Attorney-General’s Portfolio, Additional Estimates 2017-18 (February 2018).

<sup>17</sup> Family Court of Australia, *Annual Report 2018-19* (2019) 25.

<sup>18</sup> John Dewar, Barry Smith, Cate Banks, *Litigants in Person in the Family Court of Australia* (2000), Research Report No 20, 1.

- a. Further federal funding for Legal Aid and legal assistance;
  - b. Resourcing the family law system and a specialist, stand-alone family court; and
  - c. Increased funding of the Family Violence and Cross-examination of Parties Scheme.
14. This business case has been strengthened by the COVID-19 pandemic.
15. The Association further recommends that Governments should anticipate, plan and budget for the downstream justice impacts of emergencies and demands on legal services including the courts. While these impacts can be difficult to measure or quantify, they must nevertheless be anticipated and planned for.



### 3. Increased legal need during COVID-19

16. The existing justice deficit – severe backlogs, crippling judicial case-loads, under-resourcing and unmet legal need – has been compounded by the ongoing public health crisis.
17. The COVID-19 pandemic has led to increased and urgent needs in family law, the courts and other sectors, and put women, children and survivors of family violence at greater risk.
18. Urgent demands placed on family violence and women’s legal services providers and the family law system cannot be met without further resourcing, both during the crisis and the recovery. Put simply, systems and services that are not adequately resourced at the best of times simply cannot respond efficiently or with agility to meet increased demand during the worst of times.

#### *Legal assistance*

19. Access to legal services is one of the many challenges faced by survivors of domestic, family and sexual abuse. Equal and fair access to the law is undermined by the reality that, without Legal Aid or legal assistance, many people are not able to afford legal representation in criminal, civil or family law matters. This affects victims and witnesses as well as clients, and places further pressure on already overstretched court systems.
20. The 2019-20 bushfires followed by the COVID-19 pandemic have given rise to significant community need for legal assistance. The full extent of the need is difficult to quantify at this time as many matters continue, while others will not be felt for some time to come and many survivors of elder abuse or family violence may not be able to access assistance at present due to ongoing isolation.
21. The Association acknowledges the Federal Government’s May funding announcement of \$63.3 million to support frontline legal services in response to further pressures placed on legal assistance providers arising from the COVID-19 pandemic, including \$20 million to address domestic violence.<sup>19</sup> In June, the Federal Government announced that the National Legal Assistance Partnership 2020-25 will distribute over \$2 billion in funding for Commonwealth assisted legal services, with Legal Aid Commissions receiving \$1.2 billion, Domestic Violence Units/Health Justice Partnerships \$51 million and Family Advocacy and Support Services \$20 million.<sup>20</sup>
22. This must include adequate, sustained funding for specialised legal assistance providers, such as First Nations’ Legal Services, Women’s Legal Services, family law support services and family violence service providers. The alarming prevalence of family violence in the family law system makes specialisation critical to promote safe engagement for all survivors of family violence with the courts and the system, from the time a matter is filed, through appropriate triage, active case management and expedited resolution. Different combinations of frontline services may be called

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<sup>19</sup> Commonwealth Attorney-General, the Hon Christian Porter MP, ‘Funding boost to ensure struggling Australians can get legal assistance’ (Media Release, 6 May 2020) <<https://www.attorneygeneral.gov.au/media/media-releases/funding-boost-ensure-struggling-australians-can-get-legal-assistance-6-may-2020>>.

<sup>20</sup> Commonwealth Attorney-General, the Hon Christian Porter MP, ‘\$2 billion partnership to deliver legal assistance services for Australians’ (Media Release, 30 June 2020) <<https://www.attorneygeneral.gov.au/media/media-releases/2-billion-partnership-deliver-legal-assistance-services-australians-30-june-2020>>

upon at different times, to provide both immediate and sustained support in the longer term to assist survivors of family violence. These services must be resourced to provide support on initial contact and an ongoing basis for as long as that support is required.

23. The Association recognises the importance of addressing how family violence and abuse affects people from diverse cultural backgrounds, including First Nations Peoples. It is critical to ensure that specialised, culturally competent legal assistance is properly resourced and readily accessible for all people experiencing family violence. The Association urges the Government to commit to and maintain a baseline of funding for emergency domestic violence services, determined in consultation with stakeholders including service providers.
24. While recent funding is welcome and urgently needed, such investment should be proactive and ongoing to ensure the justice system and those who perform essential services within it are best equipped to respond in times of crisis. The Association considers that funding for these purposes should be provided annually as a recurring outcome of the Attorney-General's Portfolio budget to support emergency planning, build capacity and resilience in Legal Aid and legal assistance providers, and ensure Australians impacted by crises can access justice in their time of need.

*The importance of a properly resourced family law system in protecting survivors of family violence*

25. It is undeniable that the timely and just resolution of family law matters promotes the health, safety and well-being of survivors of family violence. State and Commonwealth courts, family law support services, Legal Aid and the legal assistance sector are frontline services that provide essential assistance and protection to survivors. These services must be recognised, resourced and funded as essential services at all times, to both function properly in ordinary times and to meet the pressures and demands of crises when these occur.
26. Without properly resourced, funded and accessible courts, victims of family violence are left without a means to seek protection, enforce their rights and safety, and hold perpetrators to account.
27. The Association appreciates the significant budgetary pressures facing the Government at present. However, the cost of inaction is greater. In addition to the compelling health, welfare and safety imperatives to act, domestic violence has dire financial consequences, costing the economy an estimated \$22 billion in 2015-16.<sup>21</sup> Further, there is a direct causal link between resourcing and the timeliness and quality of justice delivered by the Courts.
28. Crises or emergencies like the pandemic place tremendous pressures and ongoing stresses on affected communities, including trauma, homelessness, unemployment, dislocation and financial difficulties. This can escalate the seriousness of violence and risk for people in situations of existing domestic violence as well as trigger domestic violence in new cases.<sup>22</sup>

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<sup>21</sup> KMPG, *The Cost of Violence Against Women and their Children in Australia* (2016).

<sup>22</sup> Debra Parkinson and Claire Zara, 'The hidden disaster: domestic violence in the aftermath of natural disaster' (2013) 28(2) *Australian Journal of Emergency Management* <<https://ajem.infoservices.com.au/items/AJEM-28-02-09#>>.

29. Studies have shown a significant increase in the incidence of family violence during and following crisis and post-disaster recovery.<sup>23</sup> For example, one study found a 98% increase in violence against women as measured from before and after Hurricane Katrina.<sup>24</sup> Police in New Zealand reported a 53% increase in domestic violence following the 2010 Canterbury Earthquake.<sup>25</sup> Research by Women’s Health Goulburn North East following the Black Saturday bushfires in Victoria in 2009 likewise evidenced an increase in domestic violence in bushfire affected communities.<sup>26</sup>
30. The UN has declared domestic violence in the context of the COVID-19 pandemic a “shadow pandemic”.<sup>27</sup> It is difficult to ascertain the scale of impact for many reasons, including that a number of people exposed to family violence may not currently be able to safely access support services due to public health restrictions or isolation. Anecdotal reports of increased escalation of family violence in Australia surfaced early.<sup>28</sup>
31. Over four weeks in March and April, the number of urgent applications filed increased 39 percent in the Family Court and 23 percent in the Federal Circuit Court.<sup>29</sup> The Courts responded on 26 April by establishing a COVID-19 list.<sup>30</sup> Urgent parenting disputes arising out of the crisis are dealt with on this list and matters on the list are required to be assessed and referred to a judge within 72 hours. This has placed strain on the courts and judicial officers, who are already under significant pressure and crippling workloads.
32. Online platforms such as Microsoft Teams have been employed by the courts to ensure some matters are able to proceed without in-person hearing during the pandemic, where appropriate and in the interests of justice and the parties to do so. However, online hearings are proving to be 20 to 40 percent slower than in-person hearings.<sup>31</sup> Not only does this result in increased associated costs for parties, it means that delays are further compounded as matters are taking longer to work through.

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<sup>23</sup> See, eg, R Maguire, D Bozin, G Mortimer, ‘Domestic violence will spike in the bushfire aftermath, and governments can no longer ignore it’, *The Conversation* (online) 18 November 2019 <<http://theconversation.com/domestic-violence-will-spike-in-the-bushfire-aftermath-and-governments-can-no-longer-ignore-it-127018>>.

<sup>24</sup> Ibid, citing Schumacher, Coffey, Norris, Tracy, Clements and Galea, ‘Intimate partner violence and Hurricane Katrina: Predictors and associated mental health outcomes’ (2010) 25(5) *Violence Vict.* 588, 588-603.

<sup>25</sup> Debra Parkinson and Claire Zara, ‘The hidden disaster: domestic violence in the aftermath of natural disaster’ (2013) 28(2) *Australian Journal of Emergency Management* <<https://ajem.infoservices.com.au/items/AJEM-28-02-09#>>.

<sup>26</sup> Ibid, citing Women’s Health Goulburn North East, ‘The way he tells it...’ *Relationships after Black Saturday* (2011) <<http://genderanddisaster.com.au/wp-content/uploads/2015/06/Doc-005-The-Way-He-Tells-it1.pdf>>.

<sup>27</sup> UN Women, ‘Violence against women and girls: the shadow pandemic’, (Media Release, 6 April 2020) <<https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic>>.

<sup>28</sup> See, eg, Julie Baird, ‘Domestic abuse advocates warn of an increase in violence amongst coronavirus crisis’, *ABC News* (online), 20 March 2020 <<https://www.abc.net.au/news/2020-03-20/domestic-violence-spike-amid-coronavirus-crisis/12074726?nw=0>>.

<sup>29</sup> Family Court, ‘The courts launch COVID-19 list to deal with urgent parenting dispute’ (Media Release, 26 April 2020) <<http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/news/mr260420>>.

<sup>30</sup> Ibid.

<sup>31</sup> Justice Nye Perram, ‘Video justice: ten years of progress for courts in eight weeks’, *Australian Financial Review* (online) 14 May 2020 <<https://www.afr.com/companies/professional-services/video-justice-ten-years-of-progress-for-courts-in-eight-weeks-20200513-p54spa>>.

33. In 2018 the former Chief Justice of the Family Court, the Honourable John Pascoe AC CVO, confirmed that “many of the difficulties apparent with the system, and particularly with the Family Court, can be solved by an injection of funds, and particularly into legal aid”.<sup>32</sup>
34. Adequate resourcing of the courts to deal with the consequences of delay would have the single greatest impact moving people through the court system in a safer, fairer and more timely manner, and reducing costs for families. The Association recommends a significant increase in funding and resources, including additional judicial officers, to assist in overcoming significant backlogs and case management and to better support survivors of family violence. Whilst the Association recognises the discrete funding initiatives announced by Government,<sup>33</sup> such initiatives fail to acknowledge or address the sustained reduction and inadequacy in recurrent expenditure on the core services of the courts. These initiatives do not provide an answer to the serial cuts to funding, and consequently services, that have been imposed upon the courts and do not permit the courts to maintain, let alone strengthen, the resources necessary to deliver its core services to the Australian community. In some instances, stand-alone initiatives actually divert resources otherwise allocated to the delivery of core services to the support of such initiatives, at the expense of the ability to maintain core services. The Association is unaware of any business case being advanced as to the merits of the initiatives, any consultation with stakeholders (including the legal profession) as to the utility and benefits of these initiatives, or of any consideration of the impact of such initiatives on the core operations of the court.
35. By way of example, in the case of the property pilot and property mediation pilots,<sup>34</sup> such expenditure is unlikely to advance the protection afforded to victims of family violence. To the contrary, without a sustained and proper commitment to ensuring that victims are able to receive proper advice and representation, such diversions may well leave victims more vulnerable and exposed. Funding to conduct a pilot for the establishment of a systemic approach to identifying and managing family safety risks and for family violence training is laudable and much needed, but of limited utility if once identified the courts lack the resources to then deal with the identified issues in a timely and appropriate manner.

## 4. Conclusion

36. Thank you again for the opportunity to make a submission concerning priorities for the 2020-21 Budget. If the Association can be of further assistance to Treasury, our contact at first instance is the Association’s Director of Policy and Public Affairs, Elizabeth Pearson, at [epearson@nswbar.asn.au](mailto:epearson@nswbar.asn.au).

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<sup>32</sup> Family Court of Australia, Submission to the ALRC by the Honourable John Pascoe AC CVO, Chief Justice of the Family Court of Australia (18 May 2018) [8].

<sup>33</sup> See evidence to Senate Legal and Constitutional Affairs Committee, *Senate Estimates*, Canberra, 3 March 2020, 60 (Mr Gifford).

<sup>34</sup> *Ibid*, 60-1 (Mr Gifford, First Assistant Secretary, Families and Legal System Division, Attorney-General’s Department).