Law Council
OF AUSTRALIA

Office of the President

23 September 2025

Productivity Commission
GPO Box 1428
Canberra City ACT 2601

By email: 5pillars@pc.gov.au

Dear Commissioners

Creating a more dynamic and resilient economy

The Law Council welcomes the opportunity to provide a submission to the Productivity Commission's Interim Report on creating a more dynamic and resilient economy.

Please find our submission enclosed, informed by contributions from the Law Council's Business Law Section, as well as input from the Law Society of New South Wales, the Law Institute of Victoria, and the Administrative Law Committee of the Federal Dispute Resolution Section.

If the Law Council can be of any further assistance to the Commission, please contact Ms Leonie Campbell, General Manager, Policy, on [redacted] or at [redacted] in the first instance.

Yours sincerely

[redacted]

Juliana Warner
President

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Acknowledgements

The Law Council of Australia thanks:

- its Business Law Section;
- the Law Society of New South Wales;
- the Law Institute of Victoria; and
- the Administrative Law Committee of its Federal Dispute Resolution Section

for their contribution to the preparation of this submission.

Introduction

1. The Law Council of Australia welcomes the opportunity to provide its views on the Productivity **Commission**'s Interim Report on creating a more dynamic and resilient economy.

2. The Law Council supports the Commission's efforts to explore reforms that foster a more dynamic and resilient Australian economy. We recognise that corporate tax and regulatory system reforms can foster innovation, competition and sustainable growth. However, this must be carefully weighed against maintaining safeguards for public interest and trust in legal and policy frameworks.

3. In all aspects of reform, the Law Council calls for a balanced, evidence-based approach that pairs quantitative targets with qualitative assessments, and integrates economic goals with other policy pillars, namely:

   - building a skilled and adaptable workforce;
   - harnessing data and digital technology;
   - delivering quality care more efficiently; and
   - investing in cheaper, cleaner energy and the net zero transformation.

4. As noted in the Interim Report, a dynamic economy enables entities and individuals to invest, learn, innovate and thrive. The Law Council particularly notes the Interim Report's focus on changes to the corporate tax system, and to the way government regulates, with the goal of spurring more investment and productivity growth. These recommendations are the focus of the Law Council's submission.

5. This submission is presented in two parts. Part 1 represents the views of the Law Council's Business Law Section and reflects its membership's expertise and specific experience working with the Australian Government when considering and implementing business law reform.

6. Part 2 reflects feedback received from the Law Society of New South Wales and the Law Institute of Victoria, two constituent bodies of the Law Council. This part also incorporates additional comments received from the Administrative Law Committee of the Law Council's Federal Dispute Resolution Section.

Part 1: Views of the Law Council's Business Law Section

7. This response to Part 2 of the Commission's first Interim Report has been prepared by the Business Law Section of the Law Council of Australia (the **BLS**). The key observations are:

   (a) The problem is not as simple as 'too much' regulation or its inefficient administration; it is that too much regulation is of poor quality and is poorly calibrated and coordinated. This is particularly so in its application to small and medium enterprises (**SMEs**).

   (b) The BLS agrees with the spirit of the Commission's draft recommendations 2.1, 2.2 and 2.3, although thinks they could go further to address problems of culture and capability within government that are contributing to poor-quality regulation.

   (c) The Commission should continue to work on quantifying the impact of poor-quality regulation on the economy, to make the case to all parliamentarians and the public (not just the current Government) for a new mindset in relation to regulation and policy-of-regulation measures.

   (d) There is a compelling case for establishing an independent, non-partisan standing expert body to have carriage of a multi-year program of reform to key areas affecting the whole economy. The BLS nominates financial consumer protection, corporate disclosure and reporting, insolvency, and privacy and data governance as areas requiring urgent attention.

8. The BLS is a national volunteer organisation that contributes, in the public interest, to the development of better business law and regulation in Australia. Its membership comprises over 1,000 of Australia's most senior commercial lawyers drawn from private practice, in-house legal departments, the bar and academia. Most of the work of the BLS is carried out through 14 specialist committees, which cover the following areas of federal law and regulation: competition and consumer; construction and infrastructure; corporations; customs and international transactions; digital commerce; financial services; foreign investment; insolvency and restructuring; intellectual property; media and communications; privacy; SME business; and taxation. The BLS also has several standing and ad hoc working groups addressing specific themes in regulation.

9. The BLS frequently engages with the Commonwealth Parliament, public service and regulatory agencies on the development of business law and regulation. It has been a repeat player over many decades in the policy, implementation and administration of Commonwealth regulation. For example, between 2020 and 2025, the BLS made detailed submissions on 446 separate reform proposals. Those submissions responded to requests from parliamentary committees, Commonwealth departments, Commonwealth regulatory agencies, and commissions and public inquiries. Some of the bodies with which the BLS has engaged are listed in **Attachment 1**.

10. The remarks below are based on long observation of Commonwealth regulation and policy-of-regulation changes. 'Regulation' refers to the broad set of rules and practices, determined by governments and their agencies, with which businesses are

required or expected to comply, including primary legislation, subordinate legislation, and regulatory guidance and interpretation, and the administrative practices adopted by regulators. 'Policy-of-regulation' refers to the guiding principles for when and how, and rules and practices by which, regulation is made by governments and agencies. The remarks also reflect the BLS's experience of earlier attempts by successive Labor and Coalition governments to improve the quality of business regulation in Australia, including through enhanced policy-of-regulation measures.

The problem of poor-quality regulation

11. The BLS agrees with the Commission that poor-quality regulation is impacting adversely on productivity and business dynamism in Australia, and that there is a real risk that the problem of poor-quality regulation is becoming entrenched. It also agrees with the Commission's diagnosis of the causes of poor-quality regulation in the interim report (at page 32).

12. Part of the problem of poor-quality regulation in Australia is caused by overlap and inconsistency in regulation made by different levels of government. This is a problem as old as the federation and is apparent in, for example, environmental and planning regulation. Reordering the federal relations architecture is difficult, and a constitutional convention to modernise the allocation of powers would be required (and, indeed, is probably overdue).

13. However, this is not the whole issue and poor-quality regulation in areas that are the sole constitutional responsibility of the Commonwealth, such as financial consumer protection, is also increasing.

14. Of course, the problem of poor-quality regulation impacting negatively on productivity and business dynamism is neither new (see for example the Commission's Rethinking Regulation report from 2006) nor confined to Australia (see for example Mario Draghi's report The Future of European Competitiveness from 2024). There have been many attempts and recommendations to address it, but effective and durable solutions that survive changes of government remain elusive.

15. Making good-quality regulation is always difficult. Often, regulation is not the solution at all. If it is, then good-quality regulation requires government and its agencies to develop rules that optimally translate desirable policy objectives into behaviour change in the regulated population. Rules are optimal if the societal benefit they produce outweighs, by the largest possible amount, the costs (including of the impact on productivity, business dynamism and competitiveness) of complying with and enforcing them.

16. If regulation is chosen as the solution, then developing it involves a two-stage process. The first is deciding what policy objectives are desirable, and the second is developing the rules (and related administrative practices) that optimally translate those objectives into outcomes. Policy-of-regulation is important to both stages.

17. The BLS agrees with the Commission's assessment on policy-of-regulation that 'Australia's regulatory policy is better on paper than in practice' (at page 33). While existing policy-of-regulation contains measures (including consultation and impact assessment, and exhortations to regulatory stewardship) intended to reduce the risk

of poor-quality regulation, they are not being properly implemented. Adherence to the measures explained in the Law Council of Australia's [Best Practice Legislative Development Checklist] is patchy at best. Or course, improvements to the governance and internal oversight of policy-of-regulation measures, including those suggested by the Commission in the interim report, may help. There are some additional suggestions on policy-of-regulation measures below.

18. However, the BLS doubts they are sufficient to address the more difficult and intractable causes of poor-quality regulation within government: culture and capability.

Culture

19. From about 2010 onwards, the BLS has seen a culture emerge in Canberra of a more political and less disciplined approach to regulation. This can result in regulation to achieve short-term political 'announceables', without allowing the time or resources for proper consultation or impact analysis and without recognising the second-order consequences of adding new regulation to the existing stock. This seems to be being driven from ministerial offices. The prevailing approach can be to respond to latest problem or issue by adding another layer of complexity or another expensive disclosure or compliance requirement, without considering whether existing laws would suffice to resolve the issue, and without removing existing measures that are overtaken by the new approach.

20. In the current climate, ministers seem to be less willing to take advice from the public service, to recognise and value the experience and market insights of regulatory agencies, or to work with regulated entities and outside experts to codesign optimal regulation. Policy is a matter for the government of the day, but the policy decisions governments make should be properly informed and argued. The second stage—designing and drafting regulation to achieve the government's policy optimally—is an expert task and not a matter for political negotiation, bargaining or lobbying.

21. For that reason, it is important that members of the opposition and the crossbenches also commit to the principles of good-quality regulation and resist the temptation to 'horse-trade' on second-stage questions. Changes negotiated after legislation has reached the Parliament do not go through impact analysis and are never properly costed. Nor is the drafting properly reviewed and the relationship between the revised legislation and the existing regulatory stock cannot be properly modelled.

22. Recently, the BLS has observed an increase in legislation that leaves key details to be developed in subordinate legislation once the political heat has gone out of the issue, and governments (of both sides) rushing legislation on the basis that it will be subject to a post-implementation review years later. Such reviews are often pointless. The cost and complexity (for regulated entities and regulators) involved in unwinding changes to their systems that were made in the interim mean it can be easier to live with the sub-optimal change rather than reverse it.

Capability

23. A related problem—which has set up a loop of cause and effect—is a loss of capability within the public service to advise the government of the day on the desirability of policy objectives and the need for regulation to achieve them, and (if so) on the optimal translation of those objectives into regulation. As the public service is increasingly sidelined by the political process, its expertise is undermined making it less likely in turn to be able to provide proper advice. Under-resourcing and deskilling are particularly apparent in the second stage of regulation-making, where the technical aspects of regulatory design are poorly understood, and there are too few people in the Office of Parliamentary Counsel (**OPC**) with expertise in regulatory drafting available to do the work required. Chronic underinvestment in OPC has now created a significant regulatory chokepoint.

24. **Attachment 2** is a letter the BLS sent to the Secretary of Department of the Treasury in 2024 offering to support Treasury in matters of regulatory design.

What needs to be done

25. The BLS agrees with the Commission's three draft recommendations, although it thinks they can be taken further as explained below. More broadly, the BLS considers that:

    (a) Addressing the problem of poor-quality regulation in the national interest requires a multi-party, muti-year commitment, not just a public statement from the government of the day. The European Council's Budapest Declaration on the New European Competitiveness Deal of 2024 shows how a joint commitment along these lines might be framed.

    (b) The Commission can play an important role in capturing, quantifying and tracking the negative impact of poor-quality regulation on the Australian community. Its work should clarify and make public the need for a multi-party commitment to improving regulation, by implementing policy-of-regulation measures and addressing the culture and capability issues.

    (c) There needs to be a significant financial investment by government in developing proper tools to undertake impact analysis, including to enable government to understand the number and kind of entities subject to regulation and the cost of compliance, and to model the interaction of proposed new measures with existing regulation (see paragraphs 26 - 29 below).

    (d) There also needs to be a significant reinvestment in the capability of the public service and regulatory agencies in policy development, regulatory design and regulatory drafting. These capabilities are core to the business of government and must be protected from budget cuts that only result in outsourcing of these core functions to consultants, with the cost and lack of accountability that entails. This includes developing a more sophisticated understanding of the regulatory design issues (including regulatory hierarchy and navigability) identified by the Australian Law Reform Commission (the **ALRC**) in its confronting complexity report in 2023.

(e) A principled and consistent approach to understanding and managing the impact of regulation on SMEs and small mid-caps (SMCs) is needed, noting that not all SMEs are companies. Trusts are the default structure of choice for many SMEs. This includes having a consistent approach to defining SMEs and SMCs that takes a considered approach to factors such as workforce, turnover, ownership and entity type, and reflects global norms (see paragraphs 30 - 32).

(f) The consequences (criminal, civil penalty, civil, and administrative) of regulatory contraventions need to be recalibrated to ensure that regulated entities and regulators can take a measured, proportionate and harms-prevention approach to compliance and enforcement. This includes making due diligence a defence to unintentional regulatory contraventions that do not involve significant risk to the health of people or systems, to foster reasonable (rather than defensive or performative) steps to achieve compliance.

(g) Sector-specific ad hoc reviews of existing regulation, as proposed by the Commission, are helpful but not sufficient. A commitment to addressing poor-quality regulation that affects the whole economy is also required. The BLS thinks key priority areas—where existing recommendations for reform have been left languishing—include financial consumer protection, corporate disclosure and reporting, insolvency, and privacy and data governance.

(h) The problem of poor-quality regulation cannot be fixed wholly from within government and its agencies. It will also require the oversight and assistance of independent experts to address both stock and flow. That includes a standing body for regulatory reform that must be appropriately resourced and have a term and a mandate that extends across electoral cycles (see paragraphs 33 - 41).

Impact analysis

26. The current tools used for impact analysis are inadequate. The BLS is aware of many examples where the actual cost of implementing a regulatory requirement (to regulated entities and regulators) far exceeds that which appeared in the initial impact analysis produced by the relevant department or agency. The BLS is also aware of many substantial reforms where the department or agency concerned cannot accurately predict the number or nature of the entities that will be subject to the new law. Laws are assessed as having no cost implications or no human rights implications when this is clearly incorrect, viewed from the perspective of regulated entities.

27. The problem is exacerbated by the fact that changes made to draft regulation as a result of consultation or political negotiation are never properly re-analysed through this process.

28. The current practice of having the Office of Impact Assessment assess the quality of impact analysis (as insufficient, adequate, good practice or exemplary) is, frankly, mystifying to those outside government. The assessments do not consider the views of regulated entities, and no consequences follow from an adverse assessment. Perhaps an alternative would be to ask regulated entities to comment post-

implementation on whether the impact was as the department's or agency's modelling predicted.

29. Advances in artificial intelligence and other technologies allow governments to building a 'digital twin' of existing regulation and use it to identify areas of overlap, inconsistency and redundancy in the existing stock. These models can also support modelling the interaction of proposed new regulation with the existing stock. The ALRC's 2023 report on complexity shows what is possible here.

SME and SMC regulation

30. Existing regulation uses many different concepts and definitions of SMEs for different purposes, and the concept of SMC (as used in Europe) is not adopted here. This makes holistic modelling for and understanding the impact of regulation on SMEs and SMCs almost impossible. Businesses that are not companies are unevenly treated, including for constitutional reasons. This includes very large businesses (for example, professional and consulting firms) that operate through non-corporate structures.

31. Not-for-profits that are not charities (and therefore that are not regulated by the misnamed Australian Charities and Not-for-profits Commission) are similarly obscured in current approaches to impact analysis. Conversely, very large charities that operate with millions of dollars of public funding in the care economy are not regulated consistently with other businesses operating in that sector, for reasons that cannot be justified by their charitable status.

32. Australian governments should work towards a coherent system (at both Commonwealth and State level) for identifying what is a 'business' for regulatory purposes. This should include a consistent classification system that considers factors such as workforce, turnover, ownership and legal form in deciding which regulations should apply to which cohort, and to allow specific modelling of the impact of existing and new regulation on each cohort.

Independent and expert engagement and oversight

33. The key recommendation of the BLS in this response is for government to open itself to greater independent and expert engagement and oversight in regulation-making and the stewardship of existing regulation.

34. The BLS experience over many decades suggests that poor-quality regulation is a problem that cannot be fixed wholly within government. More politicians, bureaucrats or regulators supervising other politicians, bureaucrats or regulators has not worked. We need to look for more ambitious solutions and involve people with appropriate expertise and standing, from outside government, in oversight of the regulation-making process.

35. Dealing with the stock and flow of regulation require two different approaches. For stock, existing poor-quality regulation needs to be reviewed and consensus reached to either remove or amend it. For flow, better controls over new regulation-making need to be adopted, recognising that the timelines are more compressed.

36. Governments need help. Subject matter experts help realise government policy, and sufficient expertise does not always reside within the public service. The capability deficit is exacerbated by the practice of rotating staff every few years so that there is not an opportunity to develop deep expertise and the 'long view' of the whole regulatory landscape. Adopting a more collaborative approach will require open communication and trust between the public service and external experts, which in turn requires careful consideration of lessons learned on all sides from the PwC scandal.

37. To address (already diagnosed and documented) problems with existing stock, the BLS recommends establishing a non-partisan standing expert body, funded to maintain a permanent secretariat that includes legislative drafters, to review and recommend improvements to the existing regulatory stock in high-priority areas that affect the whole economy. The BLS has identified financial consumer regulation, corporate reporting and disclosure, insolvency, and privacy and data governance as areas urgently requiring this type of review.

38. The standing expert body could be a portfolio agency of the Department of Finance or the Department of Prime Minister and Cabinet. It should be enshrined in legislation; structurally it could be modelled on the former Corporations and Markets Advisory Committee. It should work systematically on each area, drawing on past reviews and designing proposals that are tested with affected stakeholders outside the political cycle. The expert body could also contribute to (or manage) the ad hoc sectoral reviews proposed by the Commission, undertaken jointly with expert panels with relevant sectoral experience. The body would also be available to assist government with technical aspect of the development of new regulation where appropriate. This recommendation is consistent with recent calls by the Chair of the Australian Securities and Investments Commission for reinstatement of such an advisory body.

39. Dedicated parliamentary time should be set aside each year to deal with the recommendations of the expert body and the ad hoc reviews.

40. In addressing flow, the BLS agrees with the Commission's recommendation to have a dedicated commissioner responsible for overseeing the quality of impact analysis, but recommends an independent commission of three people, one of whom has expertise in modelling the financial and non-financial impact of regulation (including on SMEs and SMCs) and one of whom has expertise in legislative design and drafting.

41. The requirements for impact analysis should be strengthened and the tools to conduct sophisticated modelling developed, as explained above. It should also be a requirement that, after any consultation has concluded, the department or agency prepare a written response to the consultation explaining in detail how it responded to the matters raised with it during that consultation.

Draft recommendations

42. The Commission's draft recommendations in Part 2 of the Interim Report are helpful and the BLS endorses them, although they could go further.

43. On draft recommendation 2.1—that the Australian Government should set a clear agenda for regulatory reform –a multi-party statement of the guiding rationales for and limits of regulation, and a joint commitment to meaningful compliance with policy-of-regulation measures, is preferable. Numeric targets for reducing the volume of regulation are less helpful than a commitment to confronting complexity. Establishing and resourcing a non-partisan standing expert body to work through the areas of highest priority for simplification is required. It is important also to focus specifically on the application of regulation to SMEs and SMCs in deciding where to adjust the scope of existing regulation.

44. On draft recommendation 2.2—to bolster high-level scrutiny—the BLS agrees, subject to the observations in paragraph 40 about the composition of the commission to oversee impact analysis provided. Also, the tools used for impact analysis must be significantly enhanced and improved (the suggestions in Volume 2 of the Draghi Report may be helpful in this regard) This is not a substitute for the expert body on regulatory reform or the sector-specific reviews but would assist with managing flow.

45. On draft recommendation 2.3—to change attitudes in the public service—the BLS thinks the cultural problem runs deeper than this and is often being driven by the politics of the day. Statements of expectation will do little to assist departments or agencies whose ministers or parliamentary oversight committees say they want to reduce the regulatory burden but are unwilling to champion or support measures that would achieve that. It is particularly important that ministers resist the urge to 'expect' regulators to enforce the law selectively or for reasons that are not consistent with rule-of-law principles. Selective enforcement is never acceptable—if public penalties and sanctions are not appropriate in particular settings then the laws imposing them should be repealed. Nor is it appropriate for regulators to bring enforcement proceedings to 'test' or 'clarity' the meaning or boundaries of poorly-drafted laws at the expense of courts and entities subject to those laws.

Further engagement

46. With the arguable exception of laws that facilitate access to capital or promote competition, it is not possible to 'regulate' for business dynamism. The best any democratic society can expect is that the policies for which the government of the day has a mandate are implemented effectively and efficiently. Achieving this goes far beyond 'red-tape reduction'. Regulation that prohibits conduct that is not already illegal under generally applicable laws, imposes a process (rather than outcome) oriented compliance or disclosure requirement, or adopts liability rules that result in a rational shift from reasonable to defensive or performative compliance, will always impact negatively on productivity, competition and innovation. This impact must be balanced against the societal benefits the regulation produces. If regulation is needed to produce that benefit, then the aim must always be to ensure that the regulation is optimal.

47. The BLS would be pleased to expand on any aspects of this response.

Part 2: Other views

48. In addition to the views of the BLS presented in Part 1 of this submission, the Law Council has received feedback on the Commission's Interim Report from the Law Society of New South Wales (**LSNSW**) and the Law Institute of Victoria (**LIV**). These additional views, together with comments from the Administrative Law Committee of the Law Council's Federal Dispute Resolution Section, are set out below.

Comments on draft recommendations

Corporate Tax Reform

Draft recommendation 1.1: Pivot the corporate tax system to a more efficient mix of taxes

49. The Commission's draft recommendation to pivot Australia's corporate tax system toward a dual structure, that would mix both corporate tax and net-cashflow tax (**NCT**), would represent a significant shift in approach to reinvigorate Australia's productivity and investment levels. While the Law Council does not necessarily take a position on draft recommendation 1.1, we note that implementation of this reform would rely on several economic, administrative and, to a certain extent, political factors.

50. Comments on the specific proposals in this section of the Interim Report, namely lowering the corporate tax rate to 20 percent, and introducing a NCT of five per cent, are set out below against the following two draft recommendations.

Draft recommendation 1.2: Lower the headline company tax rate to 20 percent

51. The Commission's Interim Report adopts the view that its draft recommendation to lower Australia's headline company tax rate to 20 per cent is expected to increase investment in Australia by:

    (a) increasing retained earnings;

    (b) attracting foreign capital into Australia; and

    (c) boosting the after-tax return companies receive on their investments.

52. Nonetheless, the LIV has suggested that this draft recommendation raises several fiscal, equity and policy design considerations that warrant careful consideration ahead of the Commission delivering its final report. These considerations are outlined below.

Potentially punitive to large corporations

53. The LIV notes that the Commission's draft recommendation would only apply to companies with annual Australian revenue below A$1 billion. Consequently, companies above this threshold would continue to attract a 30 percent company tax rate and also be subject to the recommended five per cent NCT (as per draft recommendation 1.3).

54. The LIV queries whether there is a risk that some large corporations may reconsider their operational footprint in Australia unless there are targeted concessions from the potential double-taxation burden. This may in turn lead to job losses and undermine the government's stated goal of creating a more dynamic and resilient economy.

Fiscal sustainability and budgetary impact

55. Unless there is an associated offset, either through additional revenue sources or reduced investment in public service, the LIV notes that this reform may risk increasing the structural deficit and placing upward pressure on personal income taxes.

Equity and distributional concerns

56. The Commission's company tax rate proposal creates a bifurcated tax regime that maintains a 30 percent rate for large corporations whilst offering a significantly lower rate to smaller entities. Whilst this may appear progressive, the LIV notes that it risks distorting investment decisions and incentivising corporate restructuring to avoid the higher rate threshold. Moreover, foreign investors, who willingly invested in Australia at a higher corporate rate (and already benefit from existing investments under the current tax regime) may receive windfall gains from the lower tax rate without increasing new capital inflows.

57. Consideration should be given to how this aligns with the principle of equitable tax treatment, and whether the proposal delivers the intended economic stimulus.

Industry specific taxation consequences

58. The LIV has suggested that the Commission may wish to consider more targeted and cost-effective mechanisms to stimulate investment beyond reducing the headline tax rate. This could include industry or sector specific incentives or taxes that recognise that not all sectors follow the same business model. Examples include accelerated depreciation allowances, investment tax credits and consideration of sector-specific incentives tied to productivity and innovation. Such measures directly encourage new capital formation without creating large-scale revenue losses and foreign investor windfall gains.

59. The LIV has suggested that the Commission may also wish to consider sector-specific impacts of a corporate tax rate reduction. A broad-based corporate tax approach may no longer be the most efficient approach to taxation, and certain models or aspects of a particular industry may be more efficient to tax than others. For example, an international scan of how other nations tax the resource sector, particularly multinational mining companies, suggests that other countries tax mining companies more heavily than Australia. In particular, the LIV notes that Norway imposes effective tax rates of up to 80 percent on oil and gas profits, and invests revenue collected from this tax into public purpose funds. Norway continues to see investment in its resource sector despite this high tax rate.

60. In light of the above, the Commission may wish to consider draft recommendation 1.2 along with more targeted approaches to investment stimulation. Any proposed changes to the corporate tax regime should be accompanied by comprehensive modelling of fiscal impacts, equity assessments across sectors and investor types, and consideration of alternative incentive structures.

Draft recommendation 1.3: Introduce a net cashflow tax of five per cent

61. The Commission's draft recommendation 1.3 aims to incentivise capital investment and maintain revenue neutrality. As noted in the above comments in response to draft recommendation 1.2, under the proposed tax framework, companies earning over $1 billion will face higher effective tax under the NCT (noting they are excluded from the proposed 20 percent company tax rate).

62. The LIV notes that a higher effective tax rate for large companies, whilst attracting more public revenue, may have other indirect consequences, particularly through superannuation, employment and investment. The LIV particularly highlights that:

    (a) many superannuation funds invest heavily in large firms, and a reduction in post-tax profits could lead to lower dividend payouts, reduced share price growth and diminished long-term returns for superannuation holders;

    (b) if the NCT discourages domestic investment or incentivises offshore expansion, as some modelling suggests, it could suppress job creation in Australia, reduce wage growth due to lower capital expenditure and productivity gains and even undermine the broader economic benefits intended by the reform; and

    (c) although the NCT is highly favourable to businesses undertaking significant capital investment, if large retailers, energy providers, or infrastructure firms face increased tax burdens, they may pass on costs to consumers. This could manifest as higher prices for goods and services and reduced service quality.

63. The Commission should also be mindful of sectoral disparities. For example, financial services may be partially shielded due to the exclusion of interest from the NCT base,[1] but it would appear that this may be an attempt at exploring ways to tax them further. Meanwhile, capital-intensive industries like mining may see mixed outcomes depending on investment cycles.

64. The NCT implementation would require significant changes to tax reporting systems, definitions of 'cash', and treatment of losses and dividends. Without carefully designing this proposal, the LIV notes that it risks adding complexity to an already intricate tax regime. Whilst the reform is modelled to be revenue-neutral, its reliance on investment behaviour has the potential to introduce volatility. For example, if businesses delay or reduce their capital expenditure, NCT receipts may fall short.

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[1] John Kehoe, 'Bold PC reform would raise tax for top 500 companies' (31 July 2025) <www.afr.com/policy/tax-and-super/pc-reform-would-raise-tax-for-top-500-companies-20250730-p5mitk>

65. Overall, the LIV suggests that there is a need for detailed modelling on the impact of the NCT on superannuation, employment and consumer prices. It should also provide transitional arrangements as well as develop safeguards to protect against unintended consequences. Any modelling should involve consultation with industry, unions and consumer groups to ensure key views are captured.

Regulating to promote business dynamism

66. The Law Council welcomes initiatives to minimise unnecessary regulation that hinders businesses from flourishing, and we endorse the guiding principles underpinning draft recommendations 2.1 to 2.3: namely, that the Australian Government should ensure clarity, rigour and accountability in developing regulation. Sensible tools and procedures for good regulation design and managing the stock and flow of regulation, such as impact analysis and sunsetting, are said to be consistently undermined by a risk-averse political culture.[2]

Draft recommendation 2.1: Set a clear agenda for regulatory reform

67. Law Council constituent bodies contributing to this submission agree that the proposal in draft recommendation 2.1 for a whole-of-government statement to guide regulatory reform has merit, noting that it signals a unified commitment across departments, which can help align regulatory efforts, reduce duplication and promote consistency in implementation.

68. Regulation is made in the public interest to protect consumers, businesses and communities. For example, the LSNSW has highlighted a recent Australian Security and Investment Commission (**ASIC**) report that suggests small business restructurings are keeping struggling companies afloat, illustrating the positive benefits of assisting small business with bespoke or tailored regulation and initiatives.[3] Any metrics developed to measure success in reducing regulatory burden should be balanced with careful evaluation of the estimated costs. That assessment should also recognise that it is not just the volume of regulation and multiplicity of regulators that can hinder business activity and drive up costs, it is also the uncertainty surrounding the interpretation and applicability of a hierarchy of rules across jurisdictions that can deter business ventures.

69. A statement committing to reform would benefit from an acknowledgment that best drafting legislative practice must also be observed when developing and amending regulatory regimes. In this regard, the Law Council has consistently advocated for improvement to lawmaking processes to avoid undesirable outcomes and uncertainty for individuals and businesses.[4]

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[2] Interim Report, 30–33.

[3] ASIC, "ASIC report suggests small business restructurings are keeping struggling companies afloat", Media Release dated 27 June 2025 <https://www.asic.gov.au/about-asic/news-centre/find-a-media-release/2025-releases>.

[4] Law Council of Australia, Best Practice Legislative Development Checklist, online, <https://lawcouncil.au/publicassets/54c598e1-9263-f011-94b6-005056be13b5/2025>.

70. Good regulation starts with clear laws that foster certainty and confidence, and the Law Council supports calls to simplify the regulatory framework. We agree with Joe Longo, ASIC Chair that:

> *The more complex the regulation, the harder it is to understand and comply with it. And the harder it is to enforce. It's a burden borne by everyone—legislators, policymakers, businesses big and small, regulators, consumers and investors. It's played out across the economy in lost time and productivity.*[5]

71. This calls for attention to legislative processes, as well as agendas. Recently, the Law Council has commented with some frustration about poor lawmaking processes which are being rushed unnecessarily, lack transparency, and overlook key steps in the development process. This occurs across multiple portfolios. Poor lawmaking process can produce undesirable outcomes, prove unworkable in practice and create uncertainty for individuals and businesses. In response to this trend, the Law Council has recently developed its Best Practice Legislative Development Checklist,[6] and suggests that if processes contained in this document are more closely followed, greater regard will be had to the downstream regulatory burdens of policy measures at an early stage of development.

72. The Commission's proposal for quantitative targets appears to be a reasonable way to objectively track progress of the proposed reform agenda. We also note the Commission's continued engagement with stakeholders in designing and setting the metrics to assess the quality of regulation and track the regulatory burden. Quantitative targets could be paired with qualitative evaluations to ensure that reforms genuinely foster economic dynamism rather than merely reduce red tape, and there is a need for this reform agenda be integrated with other key pillars identified by the Commission, such as innovation, competition and workforce development, to ensure a holistic and coherent approach to building a more dynamic and resilient economy.

73. One further suggestion is that the Commission could consider recommending a dedicated regulatory reform taskforce that would oversee implementation and facilitate cross-agency collaboration. In addition, mechanisms for stakeholder feedback and public reporting could be incorporated to enhance transparency and legitimacy.

Draft recommendation 2.2: Bolster high-level scrutiny of regulations

74. Draft recommendation 2.2 proposes a series of reforms aimed at strengthening the scrutiny of regulations to better support economic growth and dynamism. The Law Council acknowledges the value of this recommendation, particularly its emphasis on elevating regulatory oversight to the same level of rigour as budgetary decisions. Applying budget-style scrutiny to regulatory proposals is a welcome step, as it encourages more deliberate and evidence-based policymaking, ensuring that regulatory interventions are justified and proportionate.

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5 Joe Longo, "The times they are a-changin'—but directors' duties aren't", Keynote Speech, Australian Institute of Company Directors, Australian Governance Summit, 12 March 2025, online, <https://www.asic.gov.au/about-asic/news-centre/speeches/the-times-they-are-a-changin-but-directors-duties-aren-t/>.

6 Law Council of Australia, Best Practice Legislative Development Checklist (21 July 2025), online, <https://lawcouncil.au/resources/policies-and-guidelines/best-practice-legislative-development-checklist>.

75. We have received diverse views on the proposal to appoint an independent statutory commissioner to oversee the Office of Impact Analysis (**OIA**). On one hand, there is a degree of support for the proposal which is seen as enhancing the quality and consistency of regulatory impact assessments, which have historically suffered from variable standards and limited enforcement. However, concern has also been raised that if the proposal amounts to the creation of a new agency, it may introduce further delay in regulatory development and decision making. As an alternative, the LSNSW suggests that the Commission itself may be well placed to consider the impact of a regulatory proposal on productivity performance of business and the economy. Additionally, the Commission has statutory independence with the potential to lift the profile and standards of impact analysis.

76. If the proposal for an independent statutory commissioner progresses, the recommendation may benefit from greater clarity regarding the powers and responsibilities of the role. For this role to be effective, it must be supported by statutory authority to enforce standards, require revisions to inadequate analyses and ensure genuine independence from ministerial influence.

77. Expanding the terms of reference of Commonwealth parliamentary scrutiny committees is another positive measure. If calibrated well, this would strengthen democratic oversight and ensure that new regulations are subject to broader political and public scrutiny. Similarly, the recommendation to make greater use of external sectoral reviews is well-founded. These reviews can help identify cumulative regulatory burdens, particularly in complex or heavily regulated sectors, and offer practical pathways to reform.

78. As already emphasised, one area that could potentially be strengthened is the need for stakeholder engagement. In our view, effective regulatory scrutiny must include early and meaningful consultation with affected parties, including industry, civil society and state governments. Without this, reforms risk being disconnected from on-the-ground realities and lack legitimacy. Additionally, whilst quantitative metrics are useful for tracking progress, they should be complemented by qualitative assessments to ensure that regulatory reforms genuinely enhance economic dynamism and do not inadvertently compromise broader public interest objectives.

79. To strengthen the recommendation, mandating the publication of all Regulation Impact Statements (**RIS**s) and adequacy assessments would improve transparency. A two-stage RIS process, allowing for public comment on draft analyses, would further enhance accountability. Post-implementation reviews should be independently conducted and publicly reported to ensure that regulations continue to serve their intended purpose over time.

80. We also suggest that much greater priority should be given to ensuring cross-portfolio consistency with standards set for Commonwealth agencies by, for example, the *Regulatory Powers (Standard Provisions) Act 2014* (Cth) and the *Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers* (2024). In our view, these could be better understood and reflected across Commonwealth departments and agencies.

Effect of overregulation on small businesses, including legal practices

81. The Interim Report states that trends in the regulatory burden on businesses are going in the wrong direction. The Report has particular regard to the effects of this trend on small business, with 50 percent of small businesses surveyed by the Australian Chamber of Commerce and Industry reporting spending more time on regulatory compliance then 12 months prior.

82. This is a sentiment that rings true for the legal profession that—contrary to popular understanding—is overwhelmingly constituted by small firm businesses, with 91 per cent of private law practices operating with between one and four principals.[7]

83. These matters are sharply in focus in light of the recent burdens being imposed by the *Anti-Money Laundering and Counter Terrorism Financing Amendment Act 2024* (Cth) (including associated privacy regime obligations for small businesses, which involve unforeshadowed and significant burdens), and increased obligations relating to data protection and cyber security. For small firms, there are compound regulatory challenges flowing from substantial reforms requiring compliance at *both* the federal and state/territory level. As one illustration, on 13 August 2025, the Law Institute of Victoria released its *Benchmarking the Costs and Challenges of Practising Law in Victoria in 2025* report. This recognises the mounting pressures faced by sole practitioners and small firms, issues particularly pronounced among suburban, regional, and sole and small legal practices. Amongst the top ten challenges experienced by these firms, maintaining compliance with regulatory and other requirements is listed first.[8]

Accelerated research and development of regulatory technology

84. The Law Council has received input from the LSNSW that calls for the Australian Government to invest in accelerated research and development of regulatory technology. We are advised that Australian Government digital systems can at times be cumbersome and unreliable for business users,[9] and there is scope to further examine innovative initiatives to improve the regulatory framework such as the Australian Government's Rules as Code (**RaC**) initiative.[10]

85. These RaC projects, which convert legal text into computer code, have been in experimental phases for a number of years in Australia and have included exploration of digital experience and mapping tools to remove regulatory barriers.[11] We note that this technology has the potential to augment scrutiny of regulation by identifying

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7 Urbis, prepared for the Law Society of NSW, *2024 National Profile of Solicitors* (13 June 2025), online, <www.lawsociety.com.au/sites/default/files/2025-06/2024%20National%20Profile%20of%20Solicitors%20-%20Final.pdf>

8 Law Institute of Victoria, *LIV releases report Benchmarking the Costs and Challenges of Practising Law in Victoria in 2025*, media release, 13 August 2025.

9 For example, the Law Council has been made aware of ongoing system issues with the online processes for foreign investors to obtain a Director's ID—see online <https://www.abrs.gov.au/director-identification-number/apply-director-identification-number>, and with access to the Foreign Investment Portal—see online, <https://www.ato.gov.au/online-services/foreign-investors/online-services-for-foreign-investors>.

10 See, <https://www.govcms.gov.au/rac>.

11 For example, see the applications listed in Productivity Commission's, *Regulatory Technology: Information Paper October 2020*, <https://www.pc.gov.au/research/completed/regulatory-technology/regulatory-technology.pdf>, 13.

intersection of laws and facilitating harmonisation. On 1 July 2025, the United Kingdom launched the Regulatory Innovation Office (**RIO**). The RIO promotes RaC as a key tool to improve regulatory processes and assists businesses to:

> *… face the challenge of understanding the labyrinth of regulations in their sector. This can be especially tough for smaller companies, who often don't have teams of compliance experts, and will help them scale faster—supporting the SMEs that are the backbone of the UK economy… [The RIO] will support the development of new smarter tools to make navigating the system faster, clearer and more accessible. This will include evaluating a unified digital library providing a 'one stop' access to digital policy and regulations for innovators, helping to free up businesses to focus on growth and innovation.*[12]

86. The Law Council encourages the Commission to consider further examination of regulatory technology as part of its current inquiry.

Draft recommendation 2.3: Enhance regulatory practice to deliver growth, competition and innovation

87. Draft recommendation 2.3 seeks to enhance regulatory practice by placing greater expectations on public servants to actively support growth, competition, and innovation through the regulatory systems they administer. The Law Council supports in principle efforts to improve the culture and accountability of regulatory stewardship within the public service. However, importantly, it should be recognised that there are also clear limits to the part played by public servants, and Ministers and Parliament have even more of a driving role in determining actual regulatory practice.

88. The proposal to hold public servants accountable through key performance indicators (**KPI**s) and assessments of the costs their activities impose on businesses introduces a performance-based approach to regulatory practice. While this can incentivise efficiency and responsiveness, concerns have been raised that an overemphasis on cost reduction may lead to unintended consequences. Regulatory decisions often involve trade-offs between economic efficiency and other societal goals. KPIs should therefore be designed to reflect a balanced scorecard approach, incorporating measures of regulatory quality, stakeholder satisfaction, and long-term outcomes, not just short-term cost impacts.

89. Further, concerns have been raised with the proposed introduction of a new obligation on public servants that requires them, as regulatory stewards to 'prioritise economic growth'. This measure may heighten the potential for public servants to be exposed to conflict of duties issues that potentially undermine confidence in government institutions.

90. Overall, draft recommendation 2.3 appears to present a valuable opportunity to improve regulatory culture and practice within the public service. To ensure its success, the Commission ought to provide clear safeguards around risk tolerance guidance, ensure capability building is adequately resourced, and design accountability mechanisms that reflect the multifaceted nature of good regulation.

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[12] Gov.UK, "Regulatory Innovation Office to help streamline regulation, helping UK's world-leading fintech sector" (Press Release, 1 July 2025), online, <https://www.gov.uk/government/news/regulatory-innovation-office-to-help-streamline-regulation-helping-uks-world-leading-fintech-sector>.

These enhancements would help ensure that the recommendation supports not only economic dynamism but also regulatory integrity and public trust.

Comments on administrative law principles

91. The Administrative Law **Committee** of the Law Council's Federal Dispute Resolution Section has reviewed the Commission's Interim Report from an administrative law perspective. In doing so, the Committee has raised potential issues that may require further consideration, specifically in relation to the seemingly greater prominence of ministerial statements of expectation, and the emphasis on efficiency in regulation and KPIs.

92. In particular, the Committee notes that the Interim Report at times appears to overlook existing oversight mechanisms and, in doing so, fails to appreciate the risks of duplication and inconsistency that are presented by imposing another layer of regulation on regulatory agencies themselves.

93. As the Interim Report is cast in aspirational and high-level language, it is difficult to ascertain whether the recommendations will ultimately raise concrete areas of concern from an administrative law perspective. Nevertheless, the following remarks are provided for the Commission's consideration.

94. Accountability is built into the current Australian administrative law system, which governs public administration, including that of a regulatory nature. All Commonwealth entities are already required to meet high standards of governance, performance and accountability, including under frameworks such as the *Public Governance, Performance and Accountability Act 2013* (Cth) (**PGPA Act**). In addition, all regulators have requirements for transparency and procedural fairness in regulation review, and administrative decisions should be subject to effective administrative review processes.[13]

95. Pursuant to the *Administrative Decisions (Judicial Review) Act 1977* (Cth) and the *Judiciary Act 1903* (Cth), judicial review may be sought of a federal regulator's decisions on the basis of grounds reflecting administrative law standards of rationality and fairness.

96. The Committee suggests that the proposed development of KPIs, including the setting of timeframes for the making of decisions by regulators, has the potential to impact on the operation of administrative law principles by:

    (a) reducing the time available for a decision-maker to make an appropriate and fair decision; and

    (b) reducing the time for affected persons and the community to provide information, and make submissions, as to how the decision impacts them.

97. As a result of shifts in these areas, affected stakeholders may seek to review the decision of a decision-maker on the basis that it was made outside the time required

[13] Council of Australian Governments, *Principles and guidelines for national standard setting and regulatory action by ministerial councils and standard-setting bodies* (last amended, June 20024), online, <https://www.pc.gov.au/research/supporting/national-standard-setting>.

by the KPI guidance, and argue that the delay caused procedural unfairness or is indicative of a problem at the core of the decision-making process by the regulator or other decision-maker.

98. As noted above, the PGPA Act and associated rules, including the Public Governance, Performance and Accountability Rule 2014 (Cth), provide a framework for performance measures for Commonwealth entities in achieving their purposes. The kinds of entities covered by the PGPA Act and the duties of each kind of entity are carefully defined, and these are standards quite distinct from administrative law standards. It is at times unclear how the proposals contained in the Interim Report sit with this statutory scheme.

Attachment 1: Bodies with which the BLS has engaged

Bodies with which the BLS has engaged on proposals affecting regulation or policy-of-regulation over the last five years include:

- **Parliamentary Committees**: the Parliamentary Joint Committee on Corporations and Financial Services, Senate Economics Legislation Committee, Senate Legal and Constitutional Affairs Committee, Senate Standing Committee on Economics, Senate Standing Committees on Education and Employment, Senate Standing Committees on Environment and Communications, Select Joint Committee on Foreign Interference through Social Media, Parliamentary Joint Committee on Intelligence and Security, Senate Select Committee on Financial Technology and Regulatory Technology, and Senate Standing Committee on Foreign Affairs, Defence and Trade;

- **Commonwealth Departments**: the Departments of the Treasury; Finance; Prime Minister and Cabinet; Home Affairs; Agriculture, Fisheries and Forestry; Climate Change, Energy, the Environment and Water; Education, Skills and Employment; Employment and Workplace Relations; Industry, Science and Resources; Infrastructure, Transport, Regional Development and Communications; Communities and Justice; and Attorney-General's; and

- **Commonwealth bodies, regulators and agencies**: the ATO, ASIC, ASIC, APRA, ACCC, OAIC, AUSTRAC, IP Australia, Inspector-General of Taxation, ASBFEO, Takeovers Panel, Australian Law Reform Commission, Australian National Audit Office, Federal Court of Australia, Productivity Commission, Reserve Bank of Australia, Tax Practitioners Board, Board of Taxation, and Australian Human Rights Commission.

Attachment 2: BLS letter to Treasury Secretary

Law Council OF AUSTRALIA

Business Law Section

13 December 2024

Dr Stephen Kennedy PSM
Secretary to the Australian Treasury
The Treasury
Langton Crescent
PARKES ACT 2600

By email: OfficeOfTheSecretary@treasury.gov.au

Dear Dr Kennedy

The BLS and law reform

Thank you for the opportunity to meet with you and your colleagues on 8 August. We are grateful to you for making this time available to strengthen the relationship between Treasury and the Business Law Section (BLS) of the Law Council of Australia.

As you know, the BLS comprises approximately 1,000 senior members of the legal profession who specialise in federal business law and who are drawn from law firms, the bar, academia and corporate legal departments. BLS members are generally at the level of partner, senior counsel, professor or equivalent, and most serve on one of the 14 specialist committees listed in the attachment.

Many of the committees interact frequently with Treasury on the development and administration of business law, including by making submissions in relation to law reform proposals. As we discussed, these submissions are prepared by volunteer BLS members who are expert in the relevant area. While we are assisted by Law Council's policy staff in Canberra, responsibility for the substantive content sits with the contributing members. A list of submissions prepared by the BLS in 2024 is also attached.

Submissions are prepared in the public interests and not to advance a particular policy outcome for BLS members, their clients or others. This reflects the purpose of the BLS which is to be "an objective and independent national body comprised of experts who actively contribute to the effective development, implementation and administration of business law in Australia in accordance with its guiding principles". The formal guiding principles adopted by the BLS in its submissions policy go to promoting and defending the rule of law and promoting effective development and administration of business law.

At our recent meeting, we discussed some of the current challenges for BLS members in engaging with Treasury on business law reform. These challenges arise at both the policy stage, and at the stage when policy is being translated into legislation and legislative instruments.

At the policy stage, we are often seeing insufficient policy impact analysis (PIA) conducted on proposals, particularly as to the likely costs of new measures and the interaction of proposed new measures with existing law and regulatory practice. We discussed some recent examples at our meeting. As proposals develop and change through the consultation or legislative process, PIA is not revisited and the actual impact of measures to be adopted is never fully captured.

At the legislative stage, the time allowed for experts to engage with complex legislation or to correct poorly drafted legislation, either as part of a consultation on exposure draft legislation or at the parliamentary committee stage, is often insufficient. Again, we discussed recent examples. The principles in the Office of Impact Analysis guidance note on Best Practice Consultation (May 2023), including as to the time allowed for consultation and responding to issues raised in submissions, are not always followed. Greater reliance on confidential consultations also reduces the opportunity for proper review. While individual BLS members are often willing to assist Treasury in developing legislation on a confidential basis and subject to confidentiality undertakings, this is not the same as consultation with the BLS.

We think that insufficient PIA and inadequate time for proper public consultation on draft legislation has contributed to the poor state of parts of the Commonwealth statute book including the *Corporations Act 2001* (Cth) and associated legislation, identified as such by the Australian Law Reform Commission in its recent report on complexity in corporations and financial services law.

We acknowledge that many of these challenges (including inadequate time for consultation) are not of Treasury's making, and that Treasury staff may not have a detailed understanding of the context and systemic consequences of proposed reforms or a strong technical grounding in legislative or regulatory design (as distinct from drafting). Nevertheless, these challenges are real.

We (along with other bodies) have written to you separately about the need for a standing independent expert committee to provide stewardship for the corporations and financial services laws and to oversee a coordinated program of modernisation and improvement. We recognise that this is a matter for Government. We also note the announcement in November by Joe Longo, Chair of the Australian Securities and Investments Commission, of his intention to establish a consultative group for simplifying and improving ASIC's regulatory practices. These measures will help, but they do not cover the whole of Treasury's area of legislative responsibility.

At our August meeting we discussed establishing a small reference group to work with Treasury's Law Design division at the early stages of developing legislation. We had in mind a small group of eminent experts who would be able to advise, confidentially if appropriate, on how proposals are best designed and how different choices might impact on the whole system of business law. The focus would be on the design of regulation, rather than the content of specific measures. This would include understanding the interaction of a proposed approach with existing laws and practices.

You mentioned that a similar "council of elders" model is used by other divisions of Treasury that have technically complex areas of responsibility. If you would like to discuss this suggestion further in the new year, please let me know.

Thank you again for your time in August. The BLS looks forward to continuing to work constructively with Treasury and its agencies to support effective law reform in 2025.

Kind regards
Yours sincerely

[redacted]

Professor Emerita Pamela Hanrahan
Chair, Business Law Section

Specialist Committees of the BLS

- Competition & Consumer Committee
- Construction & Infrastructure Law Committee
- Corporations Committee
- Customs & International Transactions Committee
- Digital Commerce Committee
- Financial Services Committee
- Foreign Corrupt Practices Working Group
- Foreign Investment Committee
- Insolvency & Restructuring Committee
- Intellectual Property Committee
- Media & Communications Committee
- Privacy Law Committee
- SME Business Law Committee
- Taxation Committee

BLS Submissions 2024

To	Submission Title	Contributing Committee(s)	Date Lodged
The Treasury	Merger Reform	Competition and Consumer Committee (BLS)	19-January-2024
The Treasury	Response to PwC—Enhancing the Tax Practitioners Board's sanctions regime	Taxation Committee (BLS)	29-January-2024
The Treasury	Scams—mandatory industry codes	Financial Services Committee (BLS), Media and Communications Committee (BLS)	02-February-2024
Competition Taskforce	Supplementary Submission - Merger Reform	Competition and Consumer Committee (BLS)	08-February-2024
The Treasury	Climate-related financial disclosure exposure draft	Climate Change Working Group (LCA), Corporations Committee (BLS), Superannuation Committee (LPS), Financial Services Committee (BLS)	09-February-2024
The Treasury	Payments System Modernisation (Regulation of Payment Service Providers)	Financial Services Committee (BLS), National Electronic Conveyancing System Committee (LCA)	09-February-2024
The Treasury	Financial market infrastructure regulatory reforms	Financial Services Committee (BLS), Insolvency and Restructuring Committee (BLS)	12-February-2024
The Treasury	PRRT—anti-avoidance provisions and clarifying treatment of 'exploration' and MQPRs	Taxation Committee (BLS)	13-February-2024
ASIC	ASIC proposes to remake managed investment scheme legislative instruments	Financial Services Committee (BLS)	15-February-2024

Senate Standing Committee on Economics	Treasury Laws Amendment (Tax Accountability and Fairness) Bill 2023	Taxation Committee (BLS)	16-February-2024
The Treasury	Winding down Australia's cheques system	Financial Services Committee (BLS)	19-February-2024
The Treasury	Independent Review of the Food and Grocery Code of Conduct 2023–24	SME Committee (BLS)	14-March-2024
Australian Taxation Office	Consultation paper - Capital raised for the purpose of funding franked distributions	Taxation Committee (BLS)	14-March-2024
Department of Home Affairs	Consultation on proposed new cyber security legislation and on changes to the Security of Critical Infrastructure Act 2018	National Security Law Working Group, Superannuation Committee (LPS), Futures Committee (LCA), Corporations Committee (BLS), Privacy Law Committee (BLS)	15-March-2024
Australian Taxation Office	Draft Taxation Ruling TR 2024/D1 Income tax: royalties—character of payments in respect of software and intellectual property rights	Taxation Committee (BLS), Intellectual Property Committee (BLS)	18-March-2024
AUSTRAC	Consultation on draft outsourcing guidance	Anti-Money Laundering and Counter-Terrorism Financing Working Group (LCA), Financial Services Committee (BLS)	18-March-2024
IP Australia	Patenting of computer implemented inventions in Australia	Intellectual Property Committee (BLS)	27-March-2024
IP Australia	Regulation of agents conducting matters before IP Australia	Intellectual Property Committee (BLS)	27-March-2024

The Treasury	Buy Now Pay Later regulatory reforms	Australian Consumer Law Committee (LPS), Financial Services Committee (BLS)	13-April-2024
Senate Economics Legislation Committee	Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024 [Provisions]	Australian Environment and Planning Law Group (LPS), Corporations Committee (BLS)	16-April-2024
IP Australia	Estoppel and Appeals from Patent Office Decisions	Intellectual Property Committee (BLS)	19-April-2024
Senate Economics Legislation Committee	Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Bill 2024 [Provisions]	Superannuation Committee (LPS), Taxation Committee (BLS)	26-April-2024
Australian Securities and Investments Commission	CP 376 Registered liquidators: Registration, ongoing obligations, disciplinary actions and insurance—Updates to RG 258 and supporting documents and templates	Insolvency and Restructuring Committee (BLS)	29-April-2024
ASX	ASX CGC Principles and Recommendations	Corporations Committee (BLS)	08-May-2024
Parliamentary Joint Committee on Corporations and Financial Services	Wholesale investor and wholesale client tests	Corporations Committee (BLS), SME Committee (BLS), Financial Services Committee (BLS), Superannuation Committee (LPS)	16-May-2024
Productivity Commission	National Competition Policy analysis	Competition and Consumer Committee (BLS)	17-May-2024
AUSTRAC	AUSTRAC - Industry contribution levy 2023-2024 - stakeholder consultation paper	Financial Services Committee (BLS)	28-May-2024

Standards Australia	AS 4000—1997 General conditions of contract standard	Construction and Infrastructure Law Committee (BLS)	28-May-2024
Tax Practitioners Board	Draft guidance on breach reporting obligations	Taxation Committee (BLS)	31-May-2024
The Treasury	Exempting interfunding from mandatory foreign investment notification	Foreign Investment Committee (BLS)	31-May-2024
Australian Securities and Investments Commission	CP 378 Safeguard mechanism reforms: Updates to RG 236	Financial Services Committee (BLS)	03-June-2024
Australian Securities and Investments Commission	CP 377 Guidance for reporting by external administrators and controllers: Updates to RG 16	Insolvency and Restructuring Committee (BLS)	05-June-2024
The Treasury	Worker non-compete clauses and other restraints	Competition and Consumer Committee (BLS), Equal Opportunity Committee (LCA), Industrial Law Committee (FLDRS), SME Committee (BLS)	06-June-2024
The Treasury	Response to PwC—Tax regulator information gathering powers review	Taxation Committee (BLS)	11-June-2024
Attorney-General's Department	Draft guidance on adequate procedures to prevent the commission of foreign bribery	Foreign Corrupt Practices Working Party (BLS)	11-June-2024
Attorney-General's Department	Review of Australia's Credit Reporting Framework	Financial Services Committee (BLS), Australian Consumer Law Committee (LPS)	18-June-2024

Attorney-General's Department	Reforming Australia's anti-money laundering and counter-terrorism financing regime	Anti-Money Laundering and Counter-Terrorism Financing Working Group (LCA), Financial Services Committee (BLS)	04-July-2024
Department of Infrastructure, Transport, Regional Development, Communications and the Arts	Indigenous cultural and intellectual property rights	Indigenous Legal Issues Committee (LCA), Intellectual Property Committee (BLS)	05-July-2024
Economics Legislation Committee	Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024 [Provisions]	Financial Services Committee (BLS), Australian Consumer Law Committee (LPS)	05-July-2024
Digital Identity	2024 Digital ID Rules, Accreditation Rules and Data Standards	Digital Commerce Committee (BLS), Privacy Law Committee (BLS)	08-July-2024
Parliamentary Joint Committee on Corporations and Financial Services	Inquiry into Financial Services Regulatory Framework in Relation to Financial Abuse	Family Law Section (FLS), National Elder Law and Succession Law Committee (LCA), Australian Consumer Law Committee (LPS), Superannuation Committee (LPS), Financial Services Committee (BLS)	10-July-2024
The Treasury	Statutory Review of the Meetings and Documents Amendments – consultation	Corporations Committee (BLS), SME Committee (BLS)	22-July-2024
Attorney-General's Department	Personal Insolvency Consultation—Minimal Asset Procedure	Insolvency and Restructuring Committee (BLS)	29-July-2024
Australian Competition and Consumer Commission	Draft immunity and cooperation policy and FAQs 2024	Competition and Consumer Committee (BLS)	29-July-2024

ACCC	ACCC consulting on guide to sustainability collaborations (FED)	Competition and Consumer Committee (BLS)	05-August-2024
The Treasury	Response to PwC—Tax Practitioners Board registration review	Taxation Committee (BLS)	14-August-2024
The Treasury	Reforming mergers and acquisitions—exposure draft	Competition and Consumer Committee (BLS), Corporations Committee (BLS)	16-August-2024
ASIC	CS 10 Proposed extension of breach reporting and record-keeping legislative instruments	Financial Services Committee (BLS)	04-September-2024
Australian Taxation Office	Inbound related party financing for private groups in property and construction	Taxation Committee (BLS)	20-September-2024
The Treasury	Reforming mergers and acquisitions—notification thresholds	Competition and Consumer Committee (BLS)	23-September-2024
Senate Economics References Committee	Financial regulatory framework and home ownership	Financial Services Committee (BLS)	26-September-2024
The Treasury	Revitalising National Competition Policy	Competition and Consumer Committee (BLS)	30-September-2024
IP Australia	WIPO Design Law Treaty	Intellectual Property Committee (BLS)	08-October-2024
Attorney-General's Department	Orphan Works Scheme - Design Options	Intellectual Property Committee (BLS)	09-October-2024
Senate Legal and Constitutional Affairs Legislation Committee	Inquiry into Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024	Anti-Money Laundering and Counter-Terrorism Financing Working Group (LCA), Financial Services Committee (BLS)	16-October-2024

The Treasury	Scams Prevention Framework—exposure draft	Australian Consumer Law Committee (LPS), Financial Services Committee (BLS), Media and Communications Committee (BLS), Digital Commerce Committee (BLS), Competition and Consumer Committee (BLS)	17-October-2024
Senate Economics Legislation Committee	Treasury Laws Amendment (Mergers and Acquisitions Reform) Bill 2024 [provisions]	Competition and Consumer Committee (BLS)	25-October-2024
The Treasury	Product safety regulation - exposure draft legislation	Competition and Consumer Committee (BLS)	28-October-2024
Parliamentary Joint Committee on Intelligence and Security	Cyber Security Legislative Package 2024		31-October-2024
The Treasury	Review of tax promoter penalty laws	Taxation Committee (BLS)	08-November-2024
ASIC	Proposed updates to Regulatory Guide 51 Applications for relief (RG 51) and Regulatory Guide 108 No-action letters (RG 108)	Financial Services Committee (BLS)	18-November-2024
The Treasury	Review of AI and the Australian Consumer Law	Competition and Consumer Committee (BLS), Digital Commerce Committee (BLS), Australian Consumer Law Committee (LPS), Futures Committee (LCA)	20-November-2024
The Treasury	Consumer Guarantees and Supplier Indemnification under Consumer Law	Competition and Consumer Committee (BLS)	20-November-2024
Australian National Audit Office	Management of complaints by the Australian Taxation Office	Taxation Committee (BLS)	25-November-2024

Reserve Bank of Australia	RBA Review of Merchant Card Payment Costs and Surcharging	Financial Services Committee (BLS)	4-December-2024
The Treasury	Delivering Better Financial Outcomes - Ongoing fee arrangement approved standardised consent form	Financial Services Committee (BLS), Superannuation Committee (LPS)	4-December-2024
The Treasury	Enhanced beneficial ownership disclosure for listed entities	Corporations Committee (BLS)	13-December-2024

About the Law Council of Australia

The Law Council of Australia represents the legal profession at the national level; speaks on behalf of its constituent bodies on federal, national, and international issues; promotes and defends the rule of law; and promotes the administration of justice, access to justice, and general improvement of the law.

The Law Council advises governments, courts, and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world. The Law Council was established in 1933, and represents its constituent bodies:

- the Australian Capital Territory Bar Association;
- the Law Society of the Australian Capital Territory;
- the New South Wales Bar Association;
- the Law Society of New South Wales;
- the Northern Territory Bar Association;
- the Law Society Northern Territory;
- the Bar Association of Queensland;
- the Queensland Law Society
- the South Australian Bar Association;
- the Law Society of South Australia;
- the Tasmanian Bar;
- the Law Society of Tasmania;
- the Victorian Bar Incorporated;
- the Law Institute of Victoria;
- the Western Australian Bar Association;
- the Law Society of Western Australia; and
- Law Firms Australia.

Through these bodies, the Law Council represents more than 107,000 Australian lawyers.

The Law Council is governed by a board of 23 Directors: one from each of the constituent bodies, and six Executive members elected by Directors. The Directors meet quarterly to set objectives, policy, and priorities for the Law Council. Between Directors' meetings, responsibility for the policies and governance of the Law Council is exercised by the Executive members, led by the President. In 2025, the Law Council Executive comprises:

- Ms Juliana Warner, President
- Ms Tania Wolff, President-elect
- Ms Elizabeth Shearer, Treasurer
- Mr Lachlan Molesworth, Executive Member
- Mr Justin Stewart-Rattray, Executive Member
- Mr Ante Golem, Executive Member

The Chief Executive Officer of the Law Council is Dr James Popple.

The Law Council's Secretariat is based in Canberra. Its website is www.lawcouncil.au.