

13 November 2009

Mr J Corcoran
Law Council of Australia
G P O Box 1989
CANBERRA 2601

Dear Mr Corcoran

I have received a copy of your letter of 5 November 2009 and the attached Regulatory Framework for a National Approach to Regulation of the Legal Profession. I wish to express my concern about a fundamental aspect of your proposal.

The discussion draft of the Taskforce proposed that the National Legal Services Board should be appointed by the Standing Committee of Attorneys-General. The Law Council's Regulatory Framework proposes that the Board will be appointed by the Commonwealth Attorney-General after consultation with other State Attorneys and professional associations.

In my opinion, a vocation structured in this matter has no right to call itself a profession. Your proposed structure is, I believe, inconsistent with the first proposal you outline in your letter of 5 November, namely: "There must remain an independent legal profession".

I am not aware of any legal profession in which the regulation of the profession is conducted by a body appointed by the executive arm of government. As far as I am aware, there has never been such a structure in any State of Australia.

I have suggested that the Chair of the National Legal Services Board should be appointed by the Chief Justices Council. Furthermore, I am of the view that the majority of the members should be appointed by representatives of the profession. It is not sufficient to have only one nominee of the Law Council, as the Council has proposed.

This is a matter of fundamental structural significance which requires further attention by the Law Council and its constituent bodies.

Yours sincerely

Chief Justice

(*John Spigelman*)