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INQUIRY INTO THE COMMONWEALTH COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE BILL 2010

The Aboriginal Legal Service of Western Australia (Inc.) (ALSWA) is writing to support the creation of an independent statutory office of Commonwealth Commissioner for Children and Young People ('Commissioner'). ALSWA endorses the October 2010 discussion paper produced by the Australian Human Rights Commission (AHRC) entitled "An Australian Human Rights Commissioner" which outlines the need for and the preferred powers and functions of a national Children's Commissioner.

The work of the Western Australian Commissioner for Children and Young People has been commendable in advocating for the needs and views of children and young people and monitoring the impact of WA legislation on these persons, particularly Aboriginal and Torres Strait Islander youth.

ALSWA firmly believes that a national Commissioner will significantly contribute to improved protection of the rights of people under eighteen years of age and enhance service delivery to this important and valuable segment of the population.

ALSWA supports the key functions and powers of the Commissioner identified in the Bill including the provision of national leadership in monitoring and advocating for the well being of Australian children and young people and promoting strong early childhood intervention and education programs. In particular, ALSWA commends the inclusion of a function to enhance the status of children and young people in Australia, including Aboriginal and Torres Strait Islander children and young peoples and other groups identified as being at risk by reviewing existing laws, proposing policies, conducting research and reporting to Parliament.

The 2006 Australian census reported that 38 percent of the Aboriginal and Torres Strait Islander population was under fifteen years of age, compared with 19 percent of the non-Aboriginal population. This

population continues to experience historical disadvantage and systemic discrimination. In ALSWA's experience, Aboriginal and Torres Strait Islander children and young people are significantly overrepresented in juvenile detention centres and the justice system generally. It is imperative that efforts are made to understand the reasons behind the disadvantage experienced by Aboriginal and Torres Strait Islander youth and address this disadvantage.

ALSWA believes that Aboriginal and Torres Strait Islander children and young people would benefit from the establishment of a national Commissioner. However, ALSWA recommends that the Bill include a provision requiring the Commissioner to give priority and have special regard to the interests and needs of Aboriginal and Torres Strait Islander children and young people and other children and young people who are particularly vulnerable or disadvantaged in performing the Commissioner's functions. ALSWA recommends that any such provision closely resemble section 20 of the *Commissioner for Children and Young People Act 2006* (WA). Additionally ALSWA recommends the appointment of an Aboriginal or Torres Strait Islander Deputy Commissioner to the national Commissioner.

ALSWA additionally supports the responsibility assigned to the Commissioner to report to the United Nations Committee on the Rights of the Child. However, ALSWA recommends that the Commonwealth Commissioner for Children and Young People Bill 2010 be amended to include a function of the Commissioner to receive and act on complaints received from and / or on behalf of children concerning breaches of their human rights. While the AHRC can currently receive complaints from children about some human rights breaches, a complaints process involving the national Commissioner may be specially designed for, and in consultation with, children.

If you would like to discuss this proposal further, please contact the ALSWA Policy Officer Ms. Shanna Satya on 9265 6631.

Yours faithfully,

DENNIS EGGINGTON
Chief Executive Officer