



20 December 2004

Kelly Paxman  
Acting Secretary  
Legal and Constitutional References Committee  
Australian Senate  
Parliament House  
CANBERRA ACT 2600

Dear Ms Paxman

**Inquiry into the Administrative Appeals Tribunal Amendment Bill 2004**

I refer to your letter of 18 June 2004, inviting the Society to comment, by 21 January 2005, on the Inquiry into the Administrative Appeals Tribunal Amendment Bill 2004.

I wish to advise that the Society will not be making a detailed submission. The Law Council of Australia has advised that it intends to consider this matter, as it is a national issue. Save for the issue below, the Society will defer to the report of its national body.

The Society is not in support of the drafting of section 15 of the Bill, which provides that a person must not be appointed as the President unless he or she is or has been a judge, retired judge or legal practitioner. It is the view of the Society that the President of the Tribunal should be a judge and remain a judge. This is necessary to preserve the proper independence of the Tribunal and to provide an authoritative judicial figure in a body which must be seen to have, and in fact have, independence from the executive arm of government. This is of particular significance in a body whose work involves the review of the acts of the executive, its agents, servants and instruments.

There are also distinct advantages in the one person having the capacity to determine applications for merits review and judicial review in the same or related matters. Those advantages include efficiency, the avoidance of delay, consistency of approach and savings in time and cost. If the President of the Tribunal is not a judge of the Federal Court, those potential advantages will be lost.

Thank you for providing the opportunity to comment on the issue.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ian Weldon'.

Ian Weldon  
President