



Our Ref: HM:MAP  
Your Ref: 08/7404

Direct Line: 9926 0212

23 April 2008

Ms S Power  
Assistant Secretary  
Federal Courts Branch  
Robert Garran Offices  
National Circuit  
Barton ACT 2600

Dear Ms Power

**Re: Review into the delivery of Family Law Services**

The Law Society of NSW has received an invitation from the Attorney-General's Department to participate in the review into the delivery by the Family Court and the Federal Magistrates Court of their family law services.

The terms of reference were referred to the Law Society's Family Issues Committee, which is comprised of city, suburban and regional practitioners with extensive experience in all areas of family law.

In reference to the general ambit of the review, the Committee provides the following recommendations:

1. the current federal family law court system requires revision because it is unnecessarily complex, involves the duplication of administrative resources and has created a range of structural and other problems, particularly in relation to the allocation of resources nationally and the distribution of caseloads within individual Registries that are arguably incapable of resolution under the current system;
2. the Federal Magistrates Court (family law) should be merged with the Family Court of Australia, but the two current tiers should be maintained within the one merged court (and if this occurred, it is assumed that the Federal Magistrates Court (general federal law) would be merged with the Federal Court of Australia);
3. within a consolidated family law court the initial assessment of matters could be done by the "former" Federal Magistrates (recognising that they and existing Judges of the Family Court of Australia may each



be given a new title within a consolidated court) to determine which matters are dealt with by them and which matters are referred, at an early or subsequent stage of proceedings, to the current Family Court Judges, who should do all the appellate work;

4. a consolidated family law court would involve a single Registry and the one system of administrative governance and operational management;
5. if the two courts are to be merged (as outlined in point 2), the court "rules" for the new family law court should in large part be modelled on the current Federal Magistrates Court because those rules are simpler and tend to facilitate a more efficient and cost effective resolution of family law disputes. A new set of "simplified rules" would involve additions and/or amendments to cover the interaction of the two judicial tiers within the one family law court and would also include some of the existing Family Law Rules as may be necessary
6. if the two courts are to be merged (as outlined in point 2), the consolidated family law court should be given a new name and be a superior court of record; and
7. Federal Magistrates and Justices of the Family Court of Australia should be properly remunerated in order to retain and attract good appointments.

If you wish, representatives of the Family Issues Committee would be pleased to elaborate on the above, if this may be of assistance. I otherwise look forward to learning of your progress with the review in due course.

Yours sincerely,

Hugh Macken  
**President**

cc Maureen Schull, Director Family Law Section, Law Council of Australia