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Merits review critical to accountable government decision making

The Law Council acknowledges the Attorney-General's announcement this afternoon in relation to the future of the Administrative Appeals Tribunal (AAT).

The Law Council of Australia President Mr Tass Liveris said that an effective merits review system remains a cornerstone of Australia's administrative law system and in many ways promotes the observance of the rule of law.

"Decisions of the Australian Government play a significant role in the regulation of public life, and the administrative law system provides the critical ability to test the correctness and appropriateness of administrative decisions. Merits review also has a broader, longer-term objective of improving the quality and consistency of the decisions of primary decision makers and ensures that the openness and accountability of decisions made by government are enhanced.

"The establishment of the AAT was, at the time, an immense achievement and the result of high levels of bipartisan political support and commitment towards a comprehensive administrative law framework. More recently, there have been concerns that the current administrative law system is not functioning optimally, primarily due to a perceived lack of political commitment to the integrity of the system.

The Law Council welcomes the Government's commitment to reassessing the member appointment process.

"The Law Council has long called for these appointments to be conducted through a merit-based, transparent process. This will assist with reducing delays and improving quality of decisions while fostering public confidence in the independence and impartiality of the new body.

"The continued backlog and delays within the AAT have concerned the Law Council, especially as they relate to migration and refugee matters. The Law Council therefore welcomes today's announcement from the Attorney-General that an additional 75 members will be appointed to address the current backlog of cases and reduce wait times while the new body is being established.

"The Law Council continues to strongly support the continued role of merits review in the Australian administrative law framework. It will be working closely with Government to ensure that any new administrative body will have the effect of improving the quality of future agency decision making so as to benefit all Australians. Any new body must be fit for purpose and properly resourced to uphold its vital functions", said Mr Liveris.

Media Release



In addition to the creation of a new review body, the Law Council suggests that it is an ideal time for the Administrative Review Council to be reinstated to lead in the development of ideas and policy in the field of administrative law nationally and internationally. Such a step would be beneficial for the continuing fair and effective development of Australia's administrative law system.

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The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.